LETTER

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OF

CHARLES BUTLER, ESQ.,

TO THE

LEGISLATURE OF INDIANA,

IN RELATION TO THE

PUBLIC DEBT.

INDIANAPOLIS;
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1845.

possession, which they hold with a firm reliance on the credit of the State of Indiana.

If the State cannot make immediate provision for the payment of the interest on her bonds, in full, without imposing too great a burthen of taxation upon her citizens, then it is desirable that some arrangement be made for the payment of the interest, in part, and according to the present ability of the State; and the amount hereafter to be increased according to its growing ability.

I am aware that the "*Domestic Debt*," so called, existing in the form of treasury notes, or scrip, is receivable for State revenue, and that it is regarded by some as a first lien on the revenues of the State, and to be first paid, before any application of revenue *can* be made, to the payment of the interest on the foreign bonds, so called.

It might not be becoming in me, either to question this application of revenue, or the good faith of the State, in giving to subsequent creditors, if I may so speak, a prior and exclusive lien upon *all* the revenues of the State, and postponing its prior and equally *bona fide* creditors, from all participation and share in them, for an indefinite period. On the contrary, I am satisfied that the act referred to was prompted by considerations of the purest character, and a desire to relieve a large number of the citizens of the State, who had toiled on her public works, and whose claims were so pressing as to enlist the sympathies of the Legislature; and, although, in the estimation of your foreign bondholders, the State would have been partial to her own domestic creditors, to an extent that would have justified apprehension on their part, if she had given to them her bonds or obligations in precisely the same form, as she had previously given to those who had advanced her their money; (and surely this was all they could have exacted;) and if she had, to the extent of the interest on such bonds, allowed a higher rate, and provided for its punctual payment, *in full*, out of the revenues of the State, before any application of those revenues should be made to the payment of the interest on the other bonds; yet, they would doubtless have submitted to it without complaint; and

they cannot but regret, that such a plan was not adopted, as it would have protected the State itself from great embarrassment, and enabled it, as the history of its finances for the last four years abundantly proves, not only to have paid the interest in full on its domestic debt, but also to have paid some portion of the interest on her public debt, at the same time; and however small that portion may have been, it would have saved many from ruinous sacrifices, and contributed to the relief of others, who, during that period, have been straitened in their circumstances, in consequence of not receiving their just dues from the State; and it would have been such an earnest of intention and effort on the part of the State, to maintain its faith, and meet its liabilities, to the extent of its ability, as would at the same time have encouraged and relieved its creditors.

I desire in these remarks, to call the attention of your Excellency and the Legislature strongly, to this part of the case, not with the view of disturbing in the least, the existing arrangement in respect to the domestic debt, to the prejudice of *any* holder of any portion of it, but for the purpose of showing that your bondholders are conscious of their rights, and of the injurious discrimination, which has been made in respect to the public creditors, and which they have submitted to with an abiding confidence, that Indiana would, at the earliest practicable moment, correct as far as possible, the errors either of legislation or finance, affecting her honor, and the rights of any portion of her creditors, when their injurious and partial effects were detected. It is obvious, however, that some plan should be devised, by the wisdom of the Legislature, whereby some portion of the interest may be paid on the public debt, either by the application of some part of the revenues now levied, to that purpose, or by an increase of the tax, to be set apart and appropriated for this specific purpose, and that the foreign bondholders should not, *as a matter of course*, be excluded from all relief, until the entire domestic debt be fully paid.

In Pennsylvania, the domestic debt was postponed by the Legislature, to enable the State to do justice, and extend relief

to its public creditors; and in Illinois, where they have a domestic scrip receivable for the State taxes, an additional specific tax of one mill and a half on the dollar, (which, added to the existing tax of two mills, makes their State tax three and a half mills,) has been levied, receivable only in specie or its equivalent, and the avails of it are to be applied towards the interest on her public debt. In both cases, the object to be attained was the maintenance of public faith, and relief to the public creditors; and in the accomplishment of this great end, all local and domestic interests were deemed subordinate.

In some of my conversations with citizens of your State, on this subject, it is urged, that the State scrip is on the face of it made receivable for all State revenues, and that any interference with it would be in violation of the pledge, on the faith of which it was issued. In reply, I would respectfully ask, whether the present holders of State scrip have any higher claim on the equity of the State, than the holders of Internal Improvement bonds, who purchased them more than six years ago, and when the credit of the State was untarnished, and its pledged faith maintained in all its integrity; and who have continued to hold them from that time to the present, through good and through evil report, with a full reliance on the integrity and ultimate ability of the citizens of Indiana? Is not this class of creditors entitled to as much—nay, *more* consideration than any other class, at this time? Are they not the oldest creditors, and have they not suffered longest? Is it not the duty of the State, to exhibit the purest and highest example of equal and exact justice, towards *all* those who sustain the intimate relation of creditors to it?

In connection with this branch of the subject, it is proper again to refer to the past history of the State, and to the fact that in 1840–41, the Legislature passed a law fixing the State tax at four mills on the dollar, and the poll at seventy-five cents, and the former was set apart and specially appropriated to pay the interest on the Internal Improvement bonds; which law was at the subsequent session of 1841–42, repealed. The records in the State Auditor's office show, that in no

year before or since, has the revenue been paid in with greater promptitude, than it was during the year following the imposition of the tax in question. That the ability of the people has increased largely since then, no one will deny, and that the people of any of the western States could now pay a tax of four mills with more ease than they could then pay half that sum, I presume no one will doubt.

And here I deem it proper to refer to the copy of an Indiana Internal Improvement bond annexed hereto.

I now come to another branch of the subject, of the deepest interest to a portion of the bondholders, represented by me, viz: the holders of the Wabash and Erie canal bonds. These bonds were issued for money borrowed for the construction of that canal from Lafayette, or the mouth of the Tippecanoe river, east to the State line, (which was the Wabash and Erie canal in Indiana, as originally projected and pledged,) and the canal, its lands, its revenues and tolls, were set apart and appropriated, and by the original acts authorizing the loans, were irrevocably pledged and guarantied by the State for the payment of the interest and the redemption of the principal of those loans; and upon this pledge the loans were obtained. The canal has been finished, its entire length from Lafayette east to the State line, and the State has realized, and is, at this moment, realizing a considerable revenue from it, and yet no application has been made of any portion of those tolls and revenues, to the payment of the interest or any portion of it, according to the original pledge, and for a period of five years has the same remained unpaid. The holders of those bonds conceive that they have a right to insist that those tolls and revenues be thus applied, and they feel that the State has no right to divert, or use them for any other purpose, however useful or desirable it may be to the State, without their consent; and they appeal to the sense of justice and honor of the State, to fulfil the pledge which was so justly given, which is engraven on the face of the bond itself, and on the security of which they obtained the money. That those tolls have, by law, been made receivable in a land scrip, issued for the construction of the canal *west* of Tippe-

canoe, at par, the market value of which is only forty cents on the dollar, is a circumstance calculated to make them feel more deeply the injustice which has been done them, in diverting the tolls from the object to which they were originally pledged ; as they cannot see in such disposition of them, any public benefit to compensate for the manifest violation of public faith involved in it. If the State had, at the same time and by the same law, which diverted those revenues from their legitimate end, provided by tax, for the payment of the interest on the canal bonds, the holders would have no right to complain ; but as no such provision has been made, they are constrained to present the bond itself, to the notice of your Excellency and the Legislature ; and to respectfully and earnestly insist on the fulfilment of the obligation which it imposes ; for it will not be doubted that the necessities of those individual holders, are more pressing than can be those of the State ; and in order that your Excellency and the Legislature may better understand the views and feelings entertained on this subject, by this class of your bondholders, I subjoin hereto, the letter of Mr. Cotterell, with a copy of the bond held by them. When it is considered that there is a contract existing between the State and every single holder of its bonds, it is to be expected that he should feel a deep personal interest in every act of the Legislature affecting the terms of the contract, and calculated in the least to weaken his security.

There seems to be a strong feeling of uneasiness and discouragement manifested in relation to the increasing magnitude of the public debt, by the accumulation of interest ; and from the observation which I have been able to make on the subject, I am led to believe that the people of Indiana will cheerfully submit to any reasonable tax, for the purpose of maintaining the faith and credit of the State, provided the tax imposed will furnish the means, without any after increase, of paying the interest on the public debt—and ultimately extinguishing the principal.

In order to meet so natural a sentiment, and which I have reason to believe prevails and is increasing with the great body of the citizens of your State, and which your creditors cannot

but respect, I feel prepared, in their behalf to say, that they will be satisfied with any arrangement which will insure the application of a reasonable revenue, according to the present and future ability of the State, towards the liquidation of the accruing interest. And as the creation and application of such revenue is to be controlled by, and graduated to, the actual ability of the people, present and prospective, and as the question resolves itself into one of ability, my attention has been directed to an examination into the official documents annually submitted to the Legislature, which exhibit the resources and progress of the State, and which it is presumed may be relied on as furnishing the basis for intelligent action.

By reference to the Auditor's report for the present year—a document distinguished not more, for its lucid and minute exhibit of the finances of the State; than for its sound and practical views, which reflect credit upon that able officer—it appears that the entire public debt, so called, of the State (not including State scrip, and bonds issued for Bank stock) exclusive of all back interest is *eleven millions and ninety thousand dollars;* the annual interest on which is $556,320. I have not thought proper to add the arrears of interest to the principal of the debt, as, until it be funded, it forms no part of the funded debt. By the same document it appears that the value of taxable property in the State for the year 1845 falls little short of *one hundred and twenty millions of dollars*, and the number of polls for the same year is estimated at not less than 124,000—that the average increase of taxable property for several years past, has been nearly *five and a half millions of dollars* per annum—in other words that the average *annual* increase has been fully equal to one-half of the entire funded debt of the State; and it is to be considered that this increase in the wealth of the State, has taken place during a series of years of admitted pressure and difficulty, and while the credit of the State was under a cloud. It certainly affords striking and encouraging evidence of the growing prosperity and irrepressible energy of the people of Indiana.

I assume that the average annual increase of the value of taxable property of the State for the next ten years, will not

be less than six millions of dollars per annum, and that there will be a corresponding increase of polls. It seems to be admitted on all hands, that this calculation is a moderate one, and that it unquestionably falls short of what will be the actual result.

A calculation based on these facts will show, that without imposing a higher property tax than a three mill tax, or thirty cents on the hundred dollars, and placing the poll tax at seventy-five cents, sufficient revenue would be produced, after paying all State expenses, to pay two per cent. interest annually on the entire public debt of the State, from and after the first day of July, 1846, up to the 1st day of January, 1851, inclusive, besides leaving a surplus to be applied to the payment of the six per cent. treasury notes of over one hundred thousand dollars annually; and these being absorbed within that time, the State would then, by the further addition of a half mill in 1850, have the means to pay from and after the 1st day of January, 1851, *three* per cent. interest annually on the then *entire* funded debt, besides leaving a surplus to go to a sinking fund for the gradual redemption of the principal: and which amount of interest being secured by revenues from taxation, may be safely assumed as the limit at which taxation may be fixed; and reliance may be had on the revenues of the Wabash and Erie canal when finished from the State line to the Ohio river, to meet any deficiency; having every reason to believe that the receipts from that source will cover the amount in full after that time; and in alluding to this canal, I take occasion to say, that your bondholders regard the progress and completion of that great work of internal improvements, as intimately identified with the future wealth and prosperity of Indiana, and as adding greatly to the ability of the people to meet their just obligations; and in expressing a willingness in their behalf, to *co-operate with the State*, in any way that may be desired for the accomplishment of so great an object as the completion of that canal, at the earliest practicable period, (upon the security alone of the canal and the munificent grants of land, donated by Congress for that purpose) it is needless to say that they would be influenced

by a consideration of interest, which they believe to be mutual between the State and themselves.

In order to ascertain the total funded debt of Indiana, on the first day of January, 1851, it is suggested,

1. That for the arrears of interest on all the bonds up to the first day of July, 1846, certificates be given to the holders, payable on the first day of January, 1851, *or* then funded, at the pleasure of the State, in stock bearing interest at five per cent. from and after the first day of January, 1851, and

2. That for the arrears of interest, accruing between the first day of July, 1846, and the first day of January, 1851, like certificates be given, with the privilege of funding the same at the latter date in a similar manner, and from that period (1st January, 1851) the interest in full upon the whole debt be paid from the sources above alluded to, that is to say, three per cent. from the general revenues of the State, derived from taxation, and the balance from the revenues of the entire canal, from the State line to the Ohio river.

On the supposition that the State will provide by tax or in any other way, for the payment of two per cent. per annum interest on her foreign bonds, commencing on the first day of January, 1847, up to the first day of January, 1851, and that we may reasonably calculate out of the revenues of the canal to receive an additional one per per cent. per annum, during the same period, making 3 per cent.

On this basis, the entire funded debt of the State on the first day of January, 1851, may be estimated as follows, viz :

Principal according to the Auditor's report,		$11,090,000
Back interest from 1st January, 1841, to 1st July, 1846, is 5½ years, - - - -	$3,955,430	
Estimate of deficiency of interest between 1st July, 1846, and 1st January, 1851, say 3 per cent., 4½ Yrs.,	$998,100—	$4,053,530
Total funded debt, 1st Jan., 1851,		$19,143,530
The annual interest on which would be at 5 per cent., - - -		$757,176 50

at 3 per cent., - - -	454,305 90
" 2 per cent., - - - -	302,870 60

Thus the amount of interest to be paid annually from and after the first day of January, 1851, on the *entire* funded debt, would be seven hundred and fifty-seven thousand one hundred and seventy-six dollars and fifty cents; of which $454,305 90 would have to be provided for by taxation, (being three per cent. interest on the whole amount,) provided reliance be had on the revenues of the canal for the balance as suggested.

In proposing to fund the interest on the first day of January, 1851, I beg leave to call the attention of your Excellency and the Legislature to the fact, that by the terms of the bonds, the interest is payable semi-annually—that for this semi-annual interest there is a coupon attached to the bond—that the interest should have been paid at the time stipulated—that the holders are justly entitled to interest upon the coupons, from the period when they matured—that, as between individuals, interest, at the legal rate, is allowed always from the time the note falls due—that the State would not be less just, and if insisted on, the same would not be withheld; and I may refer to the fact, that by an act of the Legislature of the fifteenth of February, 1841, they authorized an issue of State bonds, to be made, for the express purpose of paying the interest to become due in that year, on the outstanding bonds of the State; which bonds were to bear interest at the rate of *seven* per cent. per annum, payable half yearly, and which were duly executed and tendered to the bondholders in payment of interest, and declined, except to a small amount. I refer to this act of the Legislature, as showing their sense of the obligation resting on the State—an obligation which so far from being weakened by the lapse of time, is surely strengthened. In proposing to fund the interest, therefore, on the bonds of the State, up to a period so far ahead, without interest, whereby a great sacrifice is made by the bondholders, not only in the amount surrendered, but also in the delay, and a corresponding advantage is secured to the State, and the people are relieved from the payment of a very large sum of money; I deem it proper to add, that I have been influenced by several

considerations, among the chief of which is, the desire to secure the settlement of this great question, *at this time*, and to accommodate its adjustment to the ability of the people of Indiana. I cannot permit myself to doubt that this earnest of the liberal disposition of your bondholders will be met by a corresponding spirit of liberality, on the part of the Legislature and people of Indiana.

According to the most reliable estimates, the people of Indiana will realize an advance on the productions of the State for the year 1845, over the value of the same products in the year 1844, of not less than four millions of dollars—a result as gratifying to your bondholders as it can be to any resident citizen of the State; and this, taken in connection with other concurring and favorable circumstance, renders the present a most auspicious time for the disposition of this subject.

I may be permitted with propriety, to allude not only to the great internal prosperity of the State, over which you have the honor to preside, for encouragement; but also to the prosperous condition of all the States in the great valley, and constituting at this time the granary whence are drawn, I might almost say, the supplies of the world; and with which States Indiana is so interlocked, as to make their prosperity, *hers*:—and especially would I direct the attention of the Legislature to the brilliant example of your sister State of Ohio, whose citizens have borne without murmuring the burdens necessary to sustain their credit, throughout a period of great pressure and gloom, and where a tax is collected for the year 1845, of *seventy-five cents* on the hundred dollars for the specific purpose of paying the interest on her public debt. Hers is a noble example, illustrating the integrity of a free people, who regard the maintenance of plighted faith as the true foundation of State character, and the seal of their prosperity.

Indiana, with a soil equally fertile, and a population equally industrious and enterprizing, has opened to her a career as brilliant. She has only to restore her credit—that *greatest* element of national wealth, to render it certain.

I would refer also to the progress which other States have made for the restoration of their credit—to Pensylvania and

Maryland—to Michigan and Illinois—in each of which, steps have been taken for the restoration of their credit, and the satisfactory relief of their bondholders; and in these efforts we see the recuperative energies of the American character, and the sense of justice, prevailing over every obstacle. It is a movement which enlists the sympathy of every American citizen, wherever his residence may be, and which should challenge the admiration of the world.

I cannot close without availing myself of the occasion to present a few of the considerations which belong to this great subject, involving, as it surely does, the honor of the State, and the prosperity, interests and welfare of its eight hundred thousand population, and which, it would seem, should prompt the Legislature to take immediate steps, to the extent of her ability, for the relief of her foreign bondholders. It will be remembered that they have held their bonds for a long period, without receiving any payment from the State, and the effect of such delay, is to render their property comparatively valueless in their hands. In many instances parties have held on, without submitting to the enormous sacrifice which a sale would involve, hoping for speedy relief from the State; and in such cases, if they can only be re-assured, by the payment of a small portion of the accruing interest, and by certain provision for the future, it will save them from ruinous sacrifices, and enable them to preserve their property. Next to the payment in full of all arrears, is the *fixing* the time when it will be paid; in other words, *certainty* is the thing desired—it is the uncertainty in which the whole subject is involved, and the consequent inability of needy holders, to make any certain calculations, that adds to their unhappiness—as in the case between man and man. An examination would show, that the bonds of Indiana, like those of Pennsylvania and New York, are to be found extensively in the hands of trustees, guardians, retired and aged persons, widows, and others whose object was investment, and whose reliance for support is on income. Such, with scarcely an exception, is the class I represent.

The State cannot be constrained to make payment, in any

manner, at the will of the holders of her bonds, however pressing their necessities may be; they are left to depend entirely for the fulfilment of obligations, upon her own sense of honor and justice. In the exercise of her sovereignty, she is the sole judge of her own ability, and it might be deemed presumption in any one, even a creditor, to question her integrity and disinterestedness in deciding on the question, however it might disappoint his expectations, and however variant it might be from his own estimate.

The highest evidence which can be given, of the reliance of those whom I represent, on the honor and faith of the State, is to be found in the fact already mentioned, that they have continued to hold the bonds from the period of their purchase, prior to the default of the State, down to the present time. It is true, they have been encouraged from time to time, by the solemn assurances of the people of Indiana, speaking through their Executive and Representatives, of their intention to do justice to them, as soon as they should have the ability: and especially by the emphatic language of the joint resolution, adopted by the Legislature of 1844–'45, which is—"that we regard the slightest breach of plighted faith, public "or private, as an evidence of the want of that moral principle "upon which all obligations depend: that when any State in "this Union shall refuse to recognize her great seal, as the sufficient evidence of her obligation, she will have forfeited her "station, in the sisterhood of States, and will no longer be "worthy of her confidence and respect"—and while they ought not to doubt that such is the sentiment of the people of Indiana, still, they are painfully conscious that time is running against them—that the interest is accumulating, and with the increase of the debt, the difficulties in the way of payment will also naturally increase; and they are impressed with the serious conviction, that the neglect, or refusal on the part of a State, to provide for the payment of its just debts, for an unreasonable length of time, does involve all the practical consequences of repudiation, to the holders of its obligations, and to the people themselves, and will be so regarded by the world at large; and the danger of this *tacit* or *passive* repudiation,

is increased with the delay; for the longer it is suffered to remain, the further removed it is from the time when the obligation was incurred, and when the sense of it was fresh — and when we consider the changing character of the population of all the new States, it is not surprising that the sense of obligation should grow weaker and weaker with the lapse of time; nor is it surprising, in this view of the subject that the most lively apprehension should be indulged, by persons situated like those I represent, nor that they should be importunate with your Excellency and the Legislature, to save them from such a possible fate; and in the communicaticn which I have the honor to make, if I have expressed myself too strongly on any point, or, if I have seemed to fail in any particular in the respect which is due from me, either to your Excellency or the Legislature, or the people of Indiana, I beg once for all most earnestly to disclaim any such intention, and that you will attribute it to my anxiety to represent faithfully the rights and expectations of those who have sent me on this mission, and who cannot be presumed from the relation they sustain to the State, to entertain any other than feelings of the utmost respect for its public authorities, and a sincere desire to see its credit established on the most enduring basis, and its permanent prosperity thereby secured.

In conclusion, I will add, that I am fully authorized, in behalf of a very large body of the holders of the bonds of Indiana, to enter into an arrangement with the State, in respect to the bonds held by them, having regard to the principles briefly indicated in this communication. It is impossible fully to communicate in this form, the various details of such an arrangement as they have empowered me to make, and which, from their nature, must necessarily be the subject of personal conference; but I am prepared, and will most cheerfully submit them in person, if it be agreeable to the Legislature, to any committee whom they, in their wisdom, may appoint for that purpose; and I trust that in such conference, I shall be able to satisfy the Legislature of the disposition of the bondholders whom I represent to obviate any reasonable difficulties,

which may seem at first view, to lie in the way of a satisfactory adjustment of the whole business.

With sentiments of high respect,

I am, your Exellency's ob't servant,

CHARLES BUTLER.

BIRMINGHAM, Eng., May 2, 1845.

ISAAC CAROW, Esq., New York:

Dear Sir: Permit me to remind you that about twelve years ago, you purchased for me, No. 1—30—thirty bonds of the State of Indiana, for $1,000 each of the 6 per cent. loan of 1832 for $200,000, being the first issue of bonds made by that State. I have since continued to hold these bonds, but have not received any interest thereon since 1st January, 1841.

You will observe, in reference to the annexed copy of one of them, that the State irrevocably pledged and appropriated for the payment of interest and principal, "*all the moneys to arise from certain specific funds, then irrevocably guarantied for the sufficiency of the same.*"

Now if in the face of such distinct pledges, the State appropriated moneys arising from these specific funds in question, to any other purpose than the payment of the interest on the bonds of the above mentioned loan, it is clear that great injustice is committed, because the holders of these bonds are entitled to be paid out of such moneys "in preference to any creditor of the State."

It is possible the present authorities of the State may have overlooked the specific terms, on which the loan was raised, and I should feel obliged by your using any means in your power to draw their attention to the facts of the case, as I think, it may lead to a return to the practice of good faith towards myself and other similar bondholders.

I am, dear sir, yours, very truly,

THOMAS COTTERILL.

Charles Butler, Esq.:

Dear Sir: Permit me to call your attention to the letter on the first page, and to the copy of an Indiana bond on the third page, and to request, you will press the matter on the attention of the Governor of Indiana.

Very respectfully, yours, &c.,

ISAAC CAROW.

New York, 21st June, 1845.

$1,000. No. 1.

INDIANA SIX PER CENT. STOCK,

For 200,000.

For providing means for the construction of the Wabash and Erie canal, authorized by an act of the General Assembly of the State of Indiana, approved, January 9th, 1832.

Know all men by these presents, That there is due from the State of Indiana, unto J. D. Beers & Co., or bearer, the sum of one thousand dollars, bearing an interest of six per centum per annum, from the fifteenth day of August, 1832, payable semi-annually on the first days of January and July, at the Merchants' Bank, in the city of New York; on presentation and delivery of the Dividend Warrants in the margin hereof, until payment of the principal sum, which principal sum, being stock created in pursuance of the act of the General Assembly aforesaid, is on a credit of thirty years, but may be redeemed in whole, or by payment of 50 per cent. on each certificate, at the Merchants' Bank aforesaid, after the period of twenty years from the 15th day of August, 1832, at the option of the State; and that for the payment of the interest and the redemption of the principal sum aforesaid, there are irrevocably pledged and appropriated all the moneys to arise from the lands donated by the United States, for the construction of the canal, and the canal itself, with the rents and profits thereof belonging to the State, the sufficiency of which the State of Indiana irrevocably guarantees.

Witness our hands at Indianapolis, the sixteenth day of August, 1832.

WM. C. LINTON,
NICHOLAS M'CARTY, } Commissioners.
GEO. SULLIVAN,

Countersigned, SAMUEL MERRILL, *Treasurer.*

UNITED STATES OF AMERICA.

STATE OF INDIANA.

$1,000. No. 3238.

INTERNAL IMPROVEMENT LOAN,

FIVE PER CENT. STOCK.

Under an act of the General Assembly of the State of Indiana, entitled, "an act to provide for a general system of internal improvements in Indiana," approved, January 27, 1836.

Know all men by these presents, That there is due from the State of Indiana, to the Morris Canal and Banking Company, or bearer, the sum of ONE THOUSAND DOLLARS, bearing an interest of five per centum per annum, from the date hereof, the first of which interest is payable the first day of January next, and thereafter semi-annually, on the first days of July and January, at the Banking House of the Morris Canal and Banking Company, at Jersey City, or their agency office in the City of New York, on presentation and delivery of the Dividend Warrants, severally subjoined until payment of the principal sum, which principal sum being stock created in pursuance of the act of the General Assembly aforesaid, is payable in twenty-five years from the date hereof. And for the payment of the interest and the redemption of the principal aforesaid, at either of the places aforesaid, the faith of the State of Indiana is irrevocably pledged.

Witness our hands at Indianapolis, this first day of July, 1838.

Signed, ISAAC COE, CALEB B. SMITH, JAMES FARRINGTON, } Commissioners.

To each bond there is a *Dividend Warrant, or Coupon*, attached for the payment of interest on the first days of July and January in each year, in the following form:

INDIANA INTERNAL IMPROVEMENT LOAN.

Under the act of January 27, 1836, Morris Canal and Banking Company, at Jersey City or in the city of New York, pay to the bearer twenty-five dollars, being half a year's interest on bond No. 3238, due July 1st, 1841.

(Signed) I. COE.

TABLE 1.

Showing the value of taxables—the number of polls—the annual yield of a three mill tax up to 1850, *inclusive, and thereafter three and a half mills, and a poll tax of seventy-five cents; also, the net revenue to be derived from these sources, after deducting twenty per cent. for cost of collection and delinquencies, for each year from* 1846 *to* 1855, *inclusive. The taxables are supposed to increase on an average of* $6,000,000 *and the polls* 6000 *per annum.*

Years.	*Taxables.*	*No. of Polls.*	*Amt. of Polls.*	20 *per ct. for expenses of collect'n and delinquencies.*	*Three mill tax revenue from taxables.*	*Total revenue.*
1846	$126,000,000	130,000	$97,500	$95,100	$378,000	$380,400
1847	132,000,000	136,000	102,000	99,600	396,000	398,400
1848	138,000,000	142,000	106,500	104,100	414,000	416,400
1849	144,000,000	148,000	111,000	108,600	432,000	434,400
1850	150,000,000	154,000	115,500	113,100	450,000	452,400
1851	156,000,000	160,000	120,000	117,600	546,000	532,800
1852	162,000,000	166,000	124,500	122,100	567,000	553,200
1853	168,000,000	172,000	129,000	126,600	588,000	573,600
1854	174,000,000	178,000	133,500	131,100	609,000	594,000
1855	180,000,000	184,000	138,000	135,600	630,000	614,400

TABLE 2.

Showing the ways and means for paying two per cent. interest on the public debt of Indiana, from July 1st, 1846, to January 1, 1851, inclusixe, by a tax of three mills on a dollar, or 30 cents on the $100, and 75 cents poll tax.

Public Debt, - - -		$11,090,000	Polls, 1846, - - - - 130,000
Interest annually 2 per ct. -		221,800	Taxables, - - - $126,000,000
1846—Estimated principal State scrip outstanding, 6 per cent.	367,000		Annual increase estimated at 5 per cent. average.
Back interest, 5 years,	110,100		
		$477,100	

Net revenue, - - - -		$380,400	Surplus for redemption of State Scrip or other purposes, during this year, $189,500.
1846—State expenses, - -	$80,000		
6 months interest (1 per ct.)	110,900		
		$190,900	
		$189,500	

Net revenue, - - - -		$398,400	Surplus this year, $96,600.
1847—State expenses, - -	$80,000		
Interest 1 year, (2 per cent.)	221,800		
		$301,800	
		$96,600	

TABLE 2.—*Continued.*

1848—	Net revenue, - - -		$416,400	Surplus this year, $114,600.
	State expenses, - -	$80,000		
	Interest 1 year, (2 per cent.)	221,800		
			$301,800	
			$114,600	
1849—	Net revenue, - - -		$434,400	Surplus this year, $132,600.
	State expenses, - -	$80,000		
	Interest 1 year, (2 per cent.)	221,600		
			$301,800	
			$132,600	
1850—	Net revenue, - - - -		$452,400	Surplus this year, $150,600.
	State expenses, - -	$80,000		
	Interest 1 year, (2 per ct.)	221,800		
			$301,800	
			$150,600	

NOTE.—According to the estimate of the Auditor, only about one-fourth of the revenue will probably be paid in annually in 6 per cent. Treasury Notes during the next four years, at the end of which time, if there be any outstanding, there will be funds in the Treasury for their redemption *in full.*

TABLE 3.

STATEMENT of ways and means from and after January 1, 1851, *for payment of interest at* 3 *per cent. on funded debt, of* $15,143,530.

Interest at 3 per cent. is $454,305 90.

1851—			
Surplus from year 1850, is, say - -	$100,000 00		
Revenue from 3½ mill tax, is nett -	532,800 00		
		$632,800 00	
State expenses, -	$100,000 00		
Int. on funded debt,	454,305 90		
		$554,305 90	
			$78,494 10
1852—			
Surplus from year 1851, is - - -	$78,494 10		
Revenue this year,	553,200 00		
		$631,694 10	
State expenses,	$100,000 00		
Interest, - -	454,305 90		
		554,305 90	
			$77,388 20
1853—			
Surplus from year 1852, is - - -	$77,388 20		
Revenue this year,	573,600 00		
		$650,988 20	
State expenses, -	$100,000 00		
Interest, - -	454,305 90		
		$554,305 90	
			$96,672 30
1854—			
Surplus from year 1853, is - - -	$96,672 30		
Revenue this year,	594,000 00		
		$690,672 30	
State expenses, -	$100,000 00		
Interest, - -	454,305 90		
		554,305 90	
			$136,366 40

1855—

Surplus from year 1854, is - - -	$136,366 40		
Revenue this year,	614,400 00		
		$750,766 40	
State expenses, -	$100,000 00		
Interest, - -	454,305 90		
		554,305 90	
			$196,460 50

Surplus to be applied to redemption of principal, Jan. 1, 1856.

Note.—While the valuation of taxables may be kept at the basis of 1855, or augmented until it reach $200,000,000 in 1858, the number of polls will continue to increase. If the Legislature should choose to provide for an annual surplus, not exceeding $100,000 to be applied to the redemption of principal from and after 1856, then the tax may be reduced possibly to three mills, and retaining the polls at 75 cents.

TABLE 4.

Showing the probable revenue to be derived from the Wabash and Erie Canal, from 1846 to 1855, inclusiee, as estimated by R. H. Fauntleroy and William J. Ball, Esqrs., Engineers, made 8th December, 1845.

Years.	*Length of canal completed and navigated during the year.*	*Total cost of construction.*	*Receipts in tolls, water rents, fines, &c.*	*Cost per mile of repairs including superintendent and engineering.*	*Total cost of repairs and incidental charges.*	*Amount to be paid for collection.*	*Nett revenue.*	*Per cent. cost.*
1846	188 miles	$2,929,000	$150,000	- - - -	*$120,000	$3,600	$26,400	- -
1847	188 miles	2,929,000	175,000	$400 00	75,000	3,600	96,400	- -
1848	224 miles	3,404,000	225,000	400 00	90,000	4,500	130,500	- -
1849	337 miles	4,944,000	330,000	400 00	135,000	6,600	188,400	3 3-8
1850	374 miles	5,585,000	390,000	400 00	150,000	7,800	232,200	4 1-6
1851	374 miles	5,585,000	425,000	350 00	131,000	7,800	286,200	5 1-6
1852	374 miles	5,585,000	450,000	340 00	127,000	8,000	315,000	5 2-3
1853	374 miles	5,585,000	475,000	330 00	123,000	8,000	344,000	6 1-6
1854	374 miles	5,585,000	500,000	450 00	†168,000	8,400	323,000	5 3-4
1855	374 miles	5,585,000	500,000	330 00	123,000	8,400	388,600	6 5-8

NOTE.—The cost of constructing the Wabash and Erie Canal to Lafayette, as near as can be ascertained, is $2,404,000.

*Extraordinary repairs must be made this year.

†About this time some structures will require rebuilding.

TABLE No. 5.

Showing the Revenues at a property tax of 2½ mills, and a poll tax of 75 cents, up to 1860; supposing the property increases at the rate of $6,000,000 per annum, and the polls at the rate of 6,000 per annum, and allowing 20 per cent. per annum for delinquencies and expenses.

Year.	*Property.*	*Polls.*	*Gross Revenue.*	*Delinquencies and expenses.*	*Nett Revenue.*
1846, - - - - - -	$126,000,000	130,000	$412,500	$82,500	$330,000 00
1847, - - - - - -	132,000,000	136,000	432,000	86,400	345,600 00
1848, - - - - - -	138,000,000	142,000	451,500	90,300	361,200 00
1849, - - - - - -	144,000,000	148,000	471,000	94,200	376,800 00
1850, - - - - - -	150,000,000	154,000	490,500	98,100	392,400 00
1851, - - - - - -	156,000,000	160,000	510,000	102,000	408,000 00
1852, - - - - - -	162,000,000	166,000	529,500	105,900	423,600 00
1853, - - - - - -	168,000,000	172,000	549,000	109,800	439,200 00
1854, - - - - - -	174,000,000	178,000	568,500	113,700	454,800 00
1855, - - - - - -	180,000,000	184,000	588,000	117,600	470,400 00
1856, - - - - - -	186,000,000	190,000	607,500	121,500	486,000 00
1857, - - - - - -	192,000,000	196,000	627,000	125,400	501,600 00
1858, - - - - - -	198,000,000	202,000	646,500	129,300	517,200 00
1859, - - - - - -	204,000,000	208,000	666,000	133,200	532,800 00
1860, - - - - - -	210,000,000	214,000	685,500	137,100	548,400 00

TABLE No. 6.

Showing how and when the State can pay two and a half per cent. interest on foreign debt at a tax of twenty-five cents, and a poll tax of seventy-five; supposing one-fourth of the revenues are received in Treasury Notes.

Treasury Notes, -	$491,435		
Interest, - - -	147,000		
		$638,435	
Bank loan, - - - - -		56,000	
Current expenses to 1st January, 1847,		80,000	
			$774,435
The revenue of 1845, soon to be paid, - - -	275,324		
Of this ¼ will be Tr. Notes,	68,831	68,831	
Par funds, - - -	206,493		
Out of this pay Bank loan,	56,000	56,000	
	150,493		
Current expenses to 1847,	80,000	80,000	204,831
	70,493		569,604

When the revenue of 1845 is paid in, then we shall have a surplus of $70,493 in par funds, and there will be owing in Treasury Notes, $569,604.

1847—Revenue of '46, - - - - - -			$330,000
Balance domestic debt,	$569,604		
¼ Treasury notes, - -	82,500	82,500	
	$487,104		
Current expenses, - - - - -		80,000	162,500
			167,500
Former balance, - - - - - - - -			70,493
Amount on hand 1st July, 1847, -			237,993
July 1, 1847—int. 2 per ct.	110,900		
January 1, 1848—2 per cent.	110,900		
			221,800
Excess,			16,193
1848—Revenue of 1847, - - - - -			345,600
Balance domestic debt,	$487,104		
¼ Treasury notes, - -	86,400	86,400	
	400,704		

Revenue of 1848 brought up,			345,600
Epenses for 1848,		80,000	
			166,400
			179,200
Add former balance,			16,193
Balance on hand July 1st, 1848,			$195,373
July 1, '48—int. 2 per cent.	110,900		
Jan. 1, '49, do do	110,900		
			221,800
		Deficit,	26,427
1849—Revenue of 1848,			361,200
Balance domestic debt,	400,704		
¼ Treasury Notes,	90,300	90,300	
	310,404		
Expenses for 1849,		80,000	170,300
			190,900
July 1, 1849—Interest 2 per cent.		110,900	
Jan. 1, 1850, do do		110,900	221,800
		Deficit,	30,900
1850—Revenue of 1849,			376,800
Balance domestic debt,	310,404		
¼ Treasury Notes,	94,200	94,200	
	216,204		
Expenses to January 1, 1851,		80,000	174,200
			202,600
July 1, 1850, interest at 2 per cent.		110,900	
Jan. 1, 1851, do do		110,900	221,800
		Deficit,	19,200
1851—Revenue of 1850,			392,400
Balance domestic debt,	216,104		
¼ Treasury Notes,	98,100	98,100	
	118,004		
Expenses to 1852,		80,000	178,100
			214,300

		Brought up,	$214,300
July 1, 1851—interest, - - -		110,900	
Jan. 1, 1852, do. - - -		110,900	221,800
		Deficit,	7,500
1852—Revenue of 1851, - - - - -			408,000
Balance domestic debt,	$118,104		
½ Treasury Notes, -	102,000	102,000	
	16,104		
State expenses for 1852, - -		80,000	182,000
			226,000
July 1, 1852—interest, - -		110,900	
Jan 1, 1853, do. - -		110,900	221,800
		Surplus,	4,200
1853—Revenue of 1852, - - - -			423,600
Treasury Notes, balance, - -		16,104	
Expenses for 1853, - - -		80,000	96,104
On hand 1st July, 1853, - - - - -			327,496

NOTE.—The receipts from suspended debt and other sources will amply cover the small deficiencies accruing between 1849 and 1852.

Principal debt, - - - - - - - -	11,090,000
Interest at 2½ per cent. from January 1, 1841, to January 1, 1847, - - - - - -	1,663,500
Half per cent interest from January 1, 1847, to January 1, 1853, - - - - -	332,700
	$13,086,200

Two and a half per cent interest on this sum is $327,155.00.

The revenue of 1853 will therefore pay 2½ per cent. of the principal and arrearages of interest funded, commencing July 1, 1853, as the following table will show.

1853—Revenues this year, - - - -		$439,200
State expenses, - - -	$80,000 00	
1st July, 1853, 6 mo. int. 2½ pr ct.	163,577 50	
1st Jan. 1854, do do	163,577 50	407,155
	Surplus,	32,045
1854—Surplus on hand, - -	32,045	
Revenues this year, - -	454,800	
		486,845

Brought forward,		486,485
State expenses, - - - -	80,000	
Interest one year, - - -	327,155	
		407,155
Surplus,		79,690
1855—Surplus, - - - - -	79,690	
Revenue this year, - - - -	470,400	
		550,090
State expenses, - - - - -	80,000	
Interest on public debt, - -	327,155	
		407,155
Surplus,		142,935
1856—Surplus, - - - - -	142,935	
Revenue this year, - - - -	486,000	628,935
State expenses, - - - - -	80,000	
Interest on public debt, - -	327,155	407,155
Surplus,		221,780
1857—Surplus, - - - - -	221,780	
Revenue this year, - - - -	501,600	723,380
State expenses, - - - - -	80,000	
Interest, - - - - - -	327,155	407,155
		$316,225
1858—Surplus, - - - - -	316,225	
Revenue this year, - -	517,200	833,425
State expenses and interest on public debt,		407,155
Surplus,		426,270
1859—Surplus, - - - - -	426,270	
Revenues this year, - -	532,800	
		959,070
State expenses and interest on public debt,		407,155
Surplus,		552,915
1860—Surplus, - - - - -	552,915	
Revenue this year, - -	548,400	
		1,101,315
State expenses and interest on public debt, -		407,155

1861, January 1, surplus on hand to be applied to redemption of principal, - - - - - $694,160

From and after January 1, 1861, placing the State expenses at $100,000 per annum, there will be a surplus of revenue after payment of interest, exceeding $130,000 annually to be applied to the payment of principal.

The communication of Mr. Butler was referred to a joint committee of the General Assembly consisting on the part of the Senate of one member from each judicial circuit in the State, viz:

Hon. C. V. JONES,	1st	Circuit,
JOHN S. DAVIS,	2d	"
GEORGE BERRY,	3d	"
JOSEPH LANE,	4th	"
FRANKLIN HARDIN,	5th	"
DAVID P. HOLLOWAY,	6th	"
WILLIAM G. COFFIN,	7th	"
WILLIAM M. REYBURN,	8th	"
JOSEPH W. CHAPMAN,	9th,	"
JOHN F. ALLISON,	10th,	"
ISAAC F. WOOD,	11th,	"
WILLIAM ROCKHILL,	12th,	"

and on the part of the House of Representatives of one member from each judicial circuit, viz:

Hon. SAMUEL McCORMICK,	1st	Circuit,
SAMUEL P. MOONEY,	2d	"
W. BLACKWELL,	3d	"
W. HUFF,	4th	"
JONATHAN S. HARVEY,	5th	"
MINER MEEKER,	6th	"
HENRY SECREST,	7th	"
CYRUS TABER.	8th	"
ANDREW L. OSBORN,	9th	"
GEORGE W. CARR,	10th	"
J. TOMLINSON,	11th	"
SAMUEL S. MICKLE,	12th	"

On the 16th day of December, 1845, the committee organized by the appointment of Hon. Joseph Lane as Chairman, and A. W. Morris, Esq. as Clerk.

INDIANAPOLIS, 16th Dec., 1845.

CHARLES BUTLER, Esq.:

Sir: The joint committee of the two Houses of the General Assembly of the State of Indiana, appointed to take into consideration your communication in behalf of the bond-holders of said State, have this day adopted the following resolution:

Resolved, That Charles Butler, Esq. be informed that this committee have met and organized, and that we are now ready to receive the evidence of his authority to act on behalf of any portion of our foreign bond-holders, together with any written propositions he may desire to submit in relation to an arrangement of the funded debt of the State of Indiana. And also that he be permitted to appear before this committee and submit any arguments in relation to such propositions, that may be agreeable to him."

The committee will meet to-morrow evening at the Supreme Court room, at half past six, when they will be happy to meet you, and hear any propositions which you may desire to make. Very respectfully,

Your obedient serv't,

A. L. OSBORN,

Clerk of said Committee.

To the Hon. JOSEPH LANE, *Chairman*
of the Joint Committee on the Public Debt:

SIR—In accordance with the resolution adopted by the honorable the committee on the 16th instant, I proceed to submit a proposition for the adjustment of the interest now due, and that hereafter to fall due, up to the first day of January, 1851, and after, on the bonds of the State of Indiana, held by the parties represented by me: And in the submission of this proposition, I will remark, that if on careful examination and explanation, it shall be found that the terms proposed are inadmissible in any respect, I should still hope to be able to propose or accede to such modification of it, as will render it mutually satisfactory.

PROPOSITION.

1st. That for the arrears of interest on all the bonds, up to the first day of July, 1846, certificates be given to the holders,

payable on the first day of January, 1851, *or* then funded, at the pleasure of the State, in stock bearing interest at five per cent. from and after the first day of January, 1851.

2. That *three* per cent. interest per annum be paid on the bonds, from and after the first day of July, 1846, up to the first day of January, 1851, inclusive, which may be effected without interfering with the State scrip, by a tax of three mills or thirty cents on the hundred dollars, and a poll tax of seventy-five cents, and out of such revenue paying two per cent. interest on the public debt, and relying on the revenue of the canal for an additional one per cent. during that period.

If the canal shall fail to produce revenue enough during this period, to meet this one per cent., then the deficiency, whatever it may be, to be included in the funded stock on the first day of January, 1851.

3. For the arrears or deficiency of interest accruing between the first day of July, 1846, and the first day of January, 1851, certificates be given payable on the first day of January, 1851, *or* then funded in stock bearing five per cent. interest, and from that period the interest in full upon the whole debt, to be paid regularly, at the rate of three per cent. per annum, out of revenues derived from taxation, and which it is presumed may be ensured by making a farther addition of a half mill, or five cents on the hundred dollars, in the year 1850.

Such an addition in 1850, would however produce a surplus to be applied towards the redemption of principal, amounting on the first day of January, 1856, to $196,460, and after that to the annual sum of $——

4. For the balance of two per cent., from and after the first day of January, 1851, they will be willing to rely on the revenues to be derived from the entire canal, from the State line to the Ohio river, (having regard to all prior pledges operating on any portion of it,) provided the State will take measures to ensure the completion of it through to the Ohio river, within the ensuing three or four years; and provided also, that they will secure the application of such revenues to the ob-

ject aforesaid, by vesting the property in a manner which shall be satisfactory to the bondholders.

Reliance is placed for a considerable annual revenue, from that portion of the Wabash and Erie canal already finished, being 188 miles, (from the State line to Coal creek), which revenue they fully believe will be increased by the completion of the canal through to the Ohio river, by the year 1853, to an amount sufficient to make up the full five per cent. interest on *all* the bonds outstanding, besides leaving a surplus to be annually applied towards the redemption of the principal debt.

As such reliance is proposed to be placed on the Wabash and Erie canal by the bondholders, for the payment of a sum equal to two-fifths of the annually accruing interest, on the total funded debt, from and after the first day of January, 1851, it is proper to say, that its completion is deemed essential to the plan of liquidation contemplated; and although neither the bondholders nor others would desire to make further advances to the State, yet to aid her in effecting a restoration of credit, and in completing the canal through to the Ohio river, in the shortest practicable time, *so as to ensure the results aforesaid*, it might be provided in the law providing for the payment of interest aforesaid, that the subscribers to a further advance or loan to the State, not exceeding one-third of the entire amount required for such purpose, (using the lands for the deficiency), should be entitled to receive out of the revenues of the canal and canal lands, after first repaying said advance, principal and interest, the full amount of interest on bonds held by them, in preference to any others; and also, that the principal of internal improvement bonds held by them, should be first paid; for which loan, six per cent. stock shall be issued, payable in short dates, and for the security of which there shall be a specific pledge of the canal, from the State line to the Ohio river, with all its lands and revenues, (subject always to prior pledges), and no pledge whatever of the faith of the State; which pledge of the canal and its lands and revenues, shall be vested to the satisfaction of the bondholders, so as to ensure the application of the proceeds to the purposes specified.

I feel assured that this proposition would now be accepted by the bondholders, but circumstances may occur to change this disposition on their part, if the question be deferred.

All which is respectfully submitted.

CHARLES BUTLER.

Dated Indianapolis, 19th Dec., 1845.

INDIANAPOLIS, Dec. 25, 1845.

C. BUTLER, Esq.:

Dear Sir—I am instructed by the joint committee on the public debt to inform you of the adoption of the following resolutions:

"1st. *Resolved*, That Mr. Butler be informed that this committee are unable to accede to the proposition heretofore submitted by him to said committee.

2d. That the clerk inform Mr. Butler of the passage of the above resolution, and that he be requested to make any further proposition to said committee which he may desire to make, at his earliest convenience."

Respectfully yours,
A. W. MORRIS,
Clerk to Committee.

Hon. JOSEPH LANE,

Chairman of the Joint Committee on the Public Debt:

DEAR SIR—I have this moment been put in possession of the resolution adopted by the Hon. the committee this morning, and beg leave to state that the committee will perceive the difficulty of my submitting another proposition in modification of, or substitution for, that now before the committee, unless I be apprised of the particular grounds of objection or difficulty in the way, which I beg the committee to state to me in writing, or to submit to me such proposition as it may seem to them to be just and proper, and which I will take into deliberate and careful examination; or permit me to confer personally with the committee, in the hope that by such means we may arrive at some satisfactory result.

With great respect,
I am sir, your ob't servant,
CHARLES BUTLER.

Indianapolis, Dec. 25, 1845,
½ past 11, A. M.

Committee Room No. 21,
December 25, 1845.

Charles Butler, Esq.:

Dear Sir—I am instructed by the Joint Committee on the Public Debt to communicate to you the following resolutions, this evening adopted by them, viz:

"1. *Resolved*, That this committee regard the proposition heretofore submitted by Charles Butler in behalf of the holders of the bonds of the State of Indiana, *as one entire proposition.*

2. *Resolved further*, That if Mr. Butler is authorized to change or modify said proposition, he knows the extent of such authority; and this committee knowing nothing of his private instructions, deem it improper to submit any proposition to him, for the reason, amongst others, that such proposition could not be acceded to by him, unless it should be in accordance with his instructions.

3. *Resolved further*, That if Mr. Butler has any further proposition to make to this committee, he is hereby requested to submit the same at his earliest convenience.

4. *Resolved*, That the clerk of the committee inform Mr. Butler of the adoption of these resolutions."

I am respectfully yours,
A. W. MORRIS,
Clerk to Com.

PROPOSITION No. 2.

Hon. Joseph Lane, *Chairman*
of the Joint Committee on the Public Debt:

Sir—In accordance with the resolutions adopted by the honorable committee on the 25th instant—copies of which I have the honor to acknowledge—I proceed to submit a further proposition in relation to the interest of the Bonds of the State of Indiana held by the parties represented by me. I deem it proper to say that the suggestion contained in my first proposition, that it might be subject to modification if found to be inadmissible in any respect, had regard to the amount of revenue to be at present secured by taxation and to the details of the arrangement, and not to the reduction of the rate of interest to be eventually provided for.

I do not feel myself at liberty to make any proposals or consent to any arrangement which shall embrace less than the eventual payment of the just claims of the bondholders for *the entire amount of the principal and interest of the bonds in their possession*—as I have reason to believe that your committee are disposed to go as far towards meeting these just expectations as in their judgment the circumstances of the people of Indiana will justify at this time: I am desirous cheerfully to meet them on this basis, and, with such views, I now lay before you a proposition which I hope may be found acceptable:

1st. Five per cent. interest to be paid—one-half out of revenue to be derived from taxation, and the other half out of revenues of the canal, as follows, viz:

From revenues derived from taxation, the State to pay two per cent. upon the principal of the bonds from the first of January, 1847, to the first day of January, 1853, when one-half of the arrearages of interest from first January, 1841, to first January, 1847, and one-half per cent. from first January, 1847, to first January, 1853, shall be added to the principal, and from that time forth the State to pay on the principal and interest thus added, two and a half per cent.

2d. The remaining two and a half per cent. on the principal of the bonds, computing from first January, 1841, shall be chargeable against, and paid out of, the revenues of the canal, and shall not be otherwise chargeable against the State.

The proposition proceeds upon the ground that the canal shall be speedily completed in its full extent to the Ohio river.

As such reliance is proposed to be placed on the Wabash and Erie Canal, by the bondholders, for the payment of one-half of the back and accruing interest, it is proper to say that its completion is deemed essential to the plan of liquidation contemplated, and although neither the bondholders nor others would desire to make further advances to the State; yet to aid her in effecting a restoration of credit, and in completing the canal through to the Ohio river in the shortest practicable time, *so as to ensure the results aforesaid*, it might

be provided in the law providing for the payment of interest aforesaid, that the subscribers to a further advance or loan to the State, not exceeding one-third of the entire amount required for such purpose, (using the lands for the deficiency,) should be entitled to receive out of the revenues of the canal and the canal lands, after first repaying said advance, principal and interest, the full amount of interest on bonds held by them, in preference to any others; and also that the principal of Internal Improvement bonds held by them, should be first paid: for which loan, six per cent. stock shall be issued, payable in short dates; and for the security of which loan, and also for the security of the two and a half per cent. interest aforesaid, there shall be a specific pledge of the canal from the State line to the Ohio river, with all its lands and revenues, (subject always to prior pledges,) and no pledge whatever of the faith of the State; which pledge of the canal and its lands and revenues, shall be vested to the satisfaction of the bondholders, so as to insure the application of the proceeds to the purposes specified.

I feel assured that this proposition would now be accepted by the bondholders, but circumstances may occur to change this disposition on their part if the question be deferred. All which is respectfully submitted.

INDIANAPOLIS, Dec. 26, 1845. CHARLES BUTLER.

NOTE.—See tables 5 and 6, accompanying this proposition.

The State of Indiana has sustained a loss in the sale of her bonds on credit amounting, according to the report of the State Agent, made to the General Assembly on the 15th December, 1845, to a little over $3,000,000. Of this sum about two million one hundred and twelve thousand dollars is on account of bonds sold to the Morris Canal and Banking Company; and the balance of about one million is on account of bonds sold to other parties and institutions.

A knowledge of this loss by the people has given rise to the impression that the State is not liable for the payment of

a large portion of her outstanding bonds, and the attempt has been made to discriminate in the bonds of the State between those for which full consideration has been received and those which have not been paid for.

The State Agent, in the report above referred to, says: "We can state with accuracy to whom each and every bond was delivered, and under what circumstances; but it is impossible to say how much in every instance, has been received on account of *each* bond; for on every occasion where bonds were parted with, a number was disposed of at once; and where they were parted with on credit, and but partial payments have been made for them, it is impossible to apply the payments to one bond more than to another." As it is impossible in the nature of things to discriminate in the bonds, and if we could, as it would make no difference in the liability of the State to pay any of her bonds in the hands of an innocent and bona fide holder, it may be interesting to state the facts in relation to the subject for future reference—and effectually to remove the misapprehension and error which exist in relation to it.

In 1838 and 1839, the Fund Commissioners of the State of Indiana sold a large amount of the bonds of the State to the Morris Canal and Banking Company and to various persons, and institutions, chiefly in the State of New York, on credit, which bonds were at the time *delivered* to the purchasers. By the terms of sale time was given to the purchasers to pay for them in some cases extending over several years—the very object of giving credit was to enable the purchasers to sell the bonds to others and realize the cash for them *before* they were required to pay the State. In every instance the sales were made to parties and institutions in good credit at the time, and the commissioners had no doubt of their abundant ability to meet their engagements.

The commissioners reported to the Legislature of the State their proceedings annually, exhibiting the particulars of each sale—which reports were annually printed and extensively circulated, and were acted upon by tke Legislature. By reference to the bond appended to Mr. Butler's letter it will be

perceived that it is in form payable to the bearer like a Bank bill. All State stocks are issued in this form, to give them value in the market, and to ensure their free circulation as money.

The first bonds issued under the great Internal Improvement act, which was passed in January, 1836, to the amount of $400,000, were sold on the first of June following, to the Messrs. Cohens, of Baltimore, on a credit. In the month of November, 1836, the Fund Commissioners sold to Thomas Biddle & Co. and the Morris Canal and Banking Company, one million and twenty-nine thousand dollars. In both cases the sales were made on extended credit, and the purchasers were to pay the State interest till the principal was paid; and the terms of sale were fully reported to the Legislature at the session following.—(See report Senate journal, 1836–7, page 193.) The Commissioners who made these sales were Jeremiah Sullivan, Samuel Hanna and Isaac Coe. In the spring of 1837, the Cohens failed, owing the State upwards of $300,000 on account of the bonds. On the 14th of January, 1838, the Legislature passed an act at the suggestion of the Fund Commissioners authorizing them to compromise and settle with the parties, and execute full releases.—(See laws of 1838, page 356. See also, report of Fund Commissioners, 1837–8, Senate journal, page 122.)

The State sustained a loss on this sale of a considerable sum, which is *included* in the total amount of loss above stated. This sale to Cohens on a credit, and the subsequent action of the Legislature, ratifying and approving it, established the principle on which the Fund Commissioners previously and subsequently acted, and thereby confirmed the construction which they had given to the law under which they acted, and which, in their opinion, vested them with full power and authority to sell the bonds on credit. By reference to the Fund Commissioners' report for 1837–8, Senate journal, page 122, it will be perceived, that in the year 1837, they sold to the Morris Canal and Banking Company, and others, about two millions of dollars of bonds, all on a credit, the particulars of which were fully reported to the Legislature, and were known

when they passed the act of 14th January. All the other losses were sustained on sales of bonds made subsequent to this time. If the State designed to restrict the Commissioners from selling on credit, such restrictions should have been imposed at this time, when the subject was brought directly under consideration. If the Commissioners had, in the opinion of the Legislature, transcended their powers in making such sales on credit, *then* was the time for that body to say so, and to define precisely their power.

On the contrary, it was not pretended by any one that the sale to Messrs. Cohens was in violation of the law, nor that the State was not bound to pay the bonds. The act of the Legislature proceeded upon the principle of the unquestioned liability of the State for the payment of those bonds. The same principles apply to *all* the bonds subsequently sold by the Fund Commissioners.

A few simple principles of law and equity may be laid down as applicable to the case before us:

1. A State acts by its public officers and agents—it can act in no other way—its Executive, Legislature, Auditor, Secretary, Treasurer, Agents and Commissioners, are its agents.

2. The State is bound by the acts of its agents.

3. Even if those acts were in the first instance unauthorized, yet if the State afterwards ratifies and confirms or adopts them, with full knowledge of the facts, she is bound.

4. Such affirmation or approval, or adoption, may be direct or indirect—it may be positive or implied, depending on the circumstances of the case.

The subjoined statements were made by James Farrington, Esq., and the Hon. Caleb B. Smith, to the investigating committee, in 1841–2.

These gentlemen were Fund Commissioners at the time when a large amount of bonds were sold on credit. The statements are valuable, as indicating clearly the principles by which they were governed, in disposing of the bonds of the State. (See Doc. Jour. 1841–2, page 264.)

Extract from statement of James Farrington, Esq.

Having stated the circumstances and considerations connected with other companies, and which governed the board in contracting with them, it may not be irrelevant to state the reasons that influenced myself and associates, as made known to me, in these transactions with the Morris Canal & Banking Company. In doing so, it is necessary, I should premise, that the purchases of State stocks in the New York market are generally made with a view to a re-sale in Europe. This is true, perhaps, of nine-tenths of the State stocks annually sold, if those are excepted that have been bought to be placed in the new banking institutions, under the late banking law of New York. There is not spare capital, nor has there been, in this country, seeking such investments, to take up a larger proportion than this, of the amount offered annually for sale. The consequence is, that those who deal in stocks require time for the operation until they re-sell. Hence the credit that is required and given in large sales of State stocks. In proportion to the amount is the credit short or extended. In effect the purchaser does but a commission business, the only difference being that instead of paying when he sells, he stipulates for a time, within which, he can make a sale. The difference between the prices of stocks in this country, and when re-sold in Europe, varying very little, if any, from the exchange and regular charge on the negotiation of a sale; this being the case, the seller cannot rely upon the capital of the house he deals with, as his security. More than on this must he depend upon the capital of character to make good the operation. The same principle obtains in this transaction, that guards the Legislature, when it requires of a fund commissioner a bond of $50,000 to insure the performance of his trust, and at the same time places millions in his power to dispose of. This company (the Morris Canal and Banking Company) has had some of the most distinguished men of this country to preside over its operations, and the board of directors for the last four years, and up to the time of these sales, collectively and individually, have generally been among the

most respectable and intelligent business men of New York. Whilst the stock of the company has ranged low in value from the first, it has of late years negotiated some millions annually, and from the State of Indiana within the last two years and up to the date of these sales she had purchased and paid for $3,200,000 of her bonds, and up to the month of Jannary, 1839, the date of the last sale made whilst I was in office, it had in no instance, within my knowledge, failed in its payments, but had frequently made advances to the State beyond the amount due by contract. These considerations, with the known fact that the bank of the United States at Philadelphia (then in public estimation, perhaps the highest in credit of any moneyed institution in the country) had a large interest in this company amounting, if I recollect rightly, by the exhibit made by it, to over $900,000, led me to place confidence in the Morris Canal and Banking Company, and when, *after trying in vain, to obtain from other institutions and companies terms equally advantageous as offered by this company, I did not hesitate in sanctioning it.* But for the revulsion that has taken place in the financial world, impairing, and in many instances prostrating the credit of all State stocks, as well as the moneyed institutions of the country, I still think, the Morris Canal & Banking Company would, as she had hitherto done, have continued to fulfil, in good faith, her engagements to the State.

Statement of Hon. Caleb B. Smith.

Caleb B. Smith submitted the following reply to interrogatory No. 1, being the same as proposed to Mr. Farrington.

The reply of Caleb B. Smith to the questions propounded by the committee of investigation on the part of the Senate.

In answer to the interrogatories propounded to me by the committee, I beg leave respectfully to submit the following statements:

I was appointed a member of the board of Fund Commissioners in May or June, 1837, upon the resignation of Judge Sullivan, and continued upon the board until January, 1839,

when I resigned. My colleagues at the time of my appointment were Dr. Isaac Coe and Samuel Hanna. In the spring of 1838, Mr. Hanna resigned and James Farrington was appointed his successor, who, with Dr. Coe, continued upon the board at the time of my resignation.

Whether the loans of the State or our duties as Fund Commissioners, were violated by myself or either of my colleagues, would be a conclusion deduced from the several laws defining our powers and duties, and our official acts under those laws. I will state in general terms, that I endeavored to conform my official conduct to the laws of the State, and to discharge my duties in such manner as to promote the public interest. I am not conscious of having violated either law or duty, nor do I know of any such violation by either of my colleagues. Upon this point, however, it may be more satisfactory to the committee to refer briefly to the several operations with which I was connected, and in doing so to present the motives by which I was governed. It had been the practice of the Fnnd Commissioners for some time previous to my appointment, to sell the bonds of the State upon a credit. *These sales had been reported to the Legislature, and were acquiesced in by that body*, and as no effort was made by either branch to change or restrict the mode of selling, I could not but believe that the mode of doing business which had been settled and acted upon by my predecessors for a considerable period of time, and which had (tacitly at least) met with the approbation of the Legislature—should be concurred in by me. Other considerations were influential in inducing me to come to this conclusion, among the most prominent of which, was the fact, that it was utterly impossible to effect sales to any considerable extent for cash, except upon such terms as would have involved a sacrifice of the interest of the State. There being but very little surplus capital in this country which sought investment in State stocks, the purchases were generally made with a view to a re-sale in Europe, and the purchasers could only take them upon such terms, as would enable them to realize the money upon a re-sale before they were required to make full payment. Up to the time of my resignation, the

condition of the money market remained good, and the contracts which had before been made, had in most instances been promptly and honorably complied with. Since that time a remarkable change in the condition of affairs has taken place, and losses have been sustained, against which no foresight could have guarded, and which no prudence compatible with the object of procuring money, as required for the prosecution of the works of internal improvement, could have prevented. This remark I do not intend to apply to all losses which the state has sustained; as with the operations of the Fund Commissioners, since my connection with that department ceased, I have no acquaintance, except such as I have acquired from their official reports. How far it may justly be applied to those sales with which I was connected, it will be for the committee to determine. That the Fund Commissioners may have been deceived in regard to the character of securities, or that institutions and individuals, who at the time of sales were entirely responsible, may have since become utterly insolvent, is not at all surprising, when we consider the rapid depreciation in the value of every species of property, and the unexampled financial embarrassments which have lately been witnessed in every part of the country; and more especially when we consider the immense losses which have been sustained by the purchasers of our bonds from the extraordinary depreciation in their market value. The sales of bonds made by the board, while I was a member, with the amount received and the amount yet due, will be found in the table here presented, accompanied by such explations relative to the sales as I deem necessary to give the information desired by the committee.

Statement of L. H. Scott, Esq.—(*See S. Doc.* 1839–40, *p.* 141.)

Office of Fund Commissioners,
12th December, 1839.

Hon. David Hillis, President of the Senate:

Sir—In obedience to the resolution of the Senate of the 11th instant, requesting the Fund Commissioners to report to the Senate "whether or not the bonds of the State sold by

them for internal improvement purposes have been transferred to the purchasers previous to the payment therefor, and if so, what amount have been so transferred and remain unpaid, and what security has been taken for their punctual payment, and by what authority said bonds have been sold on a credit?" I have the honor herewith to transmit the information required.

In regard to the authority by which the bonds of the State have been sold on a credit, I know of none excepting that which is derived from the silence of the law, the prevailing custom in all stock markets, and the *necessity* of the case. The Fund Commissioners are directed to sell the bonds and raise the money for our public works, but I would respectfully remark that, in any condition of the stock market, it would be impossible to sell in very large amounts and on fair terms, for cash in hand. The system governing stock operations is substantially a *credit system*. The agent in New York purchases for his principals either in America or Europe, agreeing to pay for them in instalments to meet the necessities of the State ; and if purchased on European account, *he sends them out and they may pass through several hands before the instalments become due.* Whenever the Commissioners entertain the least doubt of the responsibility of purchasers, satisfactory collateral security is required. In relation to the sales to the Morris Canal & Banking Company, without security, I can only say that I have understood the Commissioners who made those sales, to give as a reason, the fact of that institution having been the purchaser of upwards of five and a half millions of our securities, and had never been known to fail in meeting promptly each payment as it became due, but on one occasion were in advance about five hundred thousand dollars, and at different periods smaller amounts. This report, it will be perceived, does not embrace the balance due from the Cohens, as the securities taken upon that debt, were fully reported by Dr. Coe, the agent who conducted the negotiation, and by the former board of Fund Commissioners in their report of December, 1838. Respectfully submitted,

L. H. SCOTT,
Fund Commissioner.

In January, 1839, the Fund Commissioners (Messrs. Smith, Farrington, and Coe,) sold and delivered to the Morris Canal and Banking Company $400,000 of the bonds of the Wabash and Erie canal, on which, by the report of the agent of State, there yet remains due the sum of $157,798, (part of the loss aforesaid,) a portion of which bonds were afterwards, in March, 1839, purchased by the Bank for Savings, in the City of New York, as an investment. Their memorial to the Legislature is subjoined, exhibiting the facts.

From these statements it appears clearly, that the bonds were sold on credit, and delivered to the Morris Canal & Banking Company, with the express design and expectation that they would sell and transfer them to others for money, *and the credit was given to enable them to do it*, and in making such use of them, they only carried out the intentions of the parties. It would make no difference, so far as the legal liability of the State is concerned, whether such understanding existed at the time or not. The State would be liable to the innocent purchaser of one of her bonds under *all* circumstances, but it makes a difference in respect to the transaction itself, as showing that the Company, in disposing of the bonds to others, and converting them into cash, though she failed afterwards, and before she had paid the State of Indiana, did act in perfect good faith. She purchased the bonds for the express purpose of selling them again, which was made known to the Commissioners at the time. It is equally true of *all* the bonds sold to other parties in New York, to enable them to establish free banks. It was expected that they would deposit the bonds with the Comptroller of the State, as a security for circulation, which they did, and when they afterwards failed, the Comptroller sold the stocks at public auction, to the highest bidder, and the bonds passed into the hands of innocent purchasers.

After the sales were made and reported to the Legislature and as the parties failed, the Legislature authorized the Fund Commissioners to obtain securities as far as they could, and by repeated acts authorized compromises and settlements to be made with all the parties, in the discretion of the agent.

In the session of 1840–'41, the subject was referred to the judiciary committee, and a report was made by that committee, which is added—at the same session a general act was passed covering the whole subject. (See session Laws of 1840-41, page 214.)

Under this act Gov. Noble was appointed agent for the State, *with full power to settle with all the indebted parties.* (See his report to the Legislature.) Subsequently, and in the session of 1841–2, the office of State agent was created, with the same power and for the same purpose, and the present incumbent, M. G. Bright, Esq., was appointed. Under the authority of law, and in behalf of the State, he has followed up the business, and compromised and settled with nearly all the remaining indebted parties.—(See session laws 1841–2, page 18. See his first annual report 1842–3, Senate documents, page 17.)

The following letter from B. Williamson, Esq., of New Jersey, counsel employed by the State of Indiana in the suits and proceedings against the Morris Canal & Banking Company, was read by Mr. Butler to the joint committee, in his argument before them, on the subject of the Morris Canal bonds, on the evening of December 24th, 1845:

ELIZABETHTOWN, Nov. 7, 1845.

CHARLES BUTLER, Esq.:

Dear Sir—I received your letter this morning, in which you desire an answer to the question,

Is there any legal or equitable ground on which the State of Indiana can resist or object to the payment of any of the bonds sold to the Morris Canal & Banking Company?

In reply, I can only say, that nothing has come to my knowledge, which could justify the State in refusing to pay the bonds passed by her to the Morris Canal & Banking Company. I am perfectly satisfied, that the Directors of the Company, when they took the bonds, expected that the Company would be fully able to pay the amount for which they contracted to receive them. They were only prevented by disasters

which they did not foresee. When it was found they could not meet their engagements, the Company then gave up to the agents of Indiana and Michigan all their assets, good for any thing, thus prefering them as creditors. Of this, the citizens of New Jersey made great, and I think, just complaint, for many debts had been contracted with individuals who had labored and expended their money in enlarging and making more valuable the very canal which was, before these individual debts were secured, mortgaged to Indiana for a prior indebtedness.

The State, too has collected a large amount of money on these assets, and has made use of them, with full knowledge of all the circumstances under which the Company became possessed of their bonds.

Very respectfully,
Your obedient serv't,
B. WILLIAMSON.

HALL OF THE HOUSE OF REPRESENTATIVES,
December 13, 1845.

"On motion of Mr. Dowling,

Resolved, That the Agent of State be requested to report to this House whether the State has or has not, in any manner, and how, approved or confirmed the sales of bonds made by the Fund Commissioners, at any time on credit, and on which the State has sustained loss; and whether, in his opinion, the State is or is not legally and equitably liable for the payment of said bonds in the hands of the present holders, and his reasons therefor.

T. B. KINDER, Clerk."

Hon. the Speaker of the House of Representatives:

In reply to the foregoing resolution, I have the honor to reiterate what I stated in my report of 1842–'3, page 18, that the law as it originally stood, did not authorize, as I conceived, a sale of our bonds on credit; for the reason that a general agent to dispose of stocks, can only rightfully sell them for ready money. Where, however, the principal, being advised of the unauthorized act of his agent, approves or

adopts it, it becomes as much his own act and he is as much bound by it as if he had specially authorized it in the first instance. This is undoubtedly the law as between private individuals.

Another established rule of jurisprudence is, that a sovreignty, (which is incapable of being sued, and is always presumed to act from a sense of justice,) in the transaction of matters of business, is under obligations to do that which individuals, under similar circumstances, would be compellable by law to do. This principle was recognized by our Legislature, in the report of the judiciary committee, made at the session of 1840-41.

To apply these rules to Indiana bonds, I am not aware of any sale or other disposition of our bonds being made, that was not duly reported to the Legislature; nor am I aware of any act disavowing or disapproving of such sale or disposition. Individuals there were who complained, but there was no *authoritative* expression of disapprobation by the Legislature; on the contrary, the State, with knowledge of the facts, not only paid the interest upon all the bonds up to January 1, 1841, but also appointed persons from time to time to proceed and collect the debts that had been thus created.

It does not follow from this, however, that as between the State and the original purchasers we might not object to the payment of the bonds sold on credit to the extent that the purchasers had failed to pay us the price. We being indebted to them the amount of the bonds, and they being indebted to us the price or consideration of the same bonds, the claim of one could only be set off against the other. But where the bond has passed out of the hands of the original purchaser, a very different question is presented. Our bonds, like all similar securities, are used as a kind of currency,—they are payable to bearer, and like a bank note, a property in them is passed by mere act of delivery. That the innocent and bona fide holder of such a bond, containing upon its face the promise of the State to pay him—whoever he may be, the sum expressed therein, should be affected by the equities existing between the original parties, would be a violation of one of

the first principles of mercantile law, by which it has been held these securities are to be governed.

Such are my opinions: I give them with reluctance and with all due deference.

Respectfully submitted,

M. G. BRIGHT, Agent.

Mr. Sweetser's Report.

At the session of 1840–41, Mr. Sweetser, from the Judiciary committee, made the following report in relation to the payment of State Bonds:

Mr. Speaker:—The Judiciary Committee to whom was referred a resolution of this House directing them to inquire into and report upon the following resolution, to wit: "The legal liability of the State of Indiana for the payment of her suspended debt, or liability created by the sale or hypothecation of State bonds, on which nothing has been received, or can be recovered by the State; and whether the Fund Commissioners were vested with power to negotiate the sale of State bonds on "time;" and if, in the opinion of the committee, there be no legal liability on the part of the State for the payment of the aforesaid bonds; whether on account of the Fund Commissioners having violated the law and transcended their powers of appointment, or in consequence of a failure on the part of the purchasers of the aforesaid bonds to comply with the stipulations of the contract, what course it would be proper for the State to pursue to release her citizens from the payment of said bonds," have had the same under consideration and directed me to make the following report. The resolution contains two propositions which will be considered in the following order:

First. Were the Fund Commissioners vested with power to negotiate the sale of State bonds on 'time?'

The sales of State bonds on "time," were made under the 8th section of an act entitled "an act to provide for a general system of Internal Improvements," approved January 27th,

1836, and the 1st and 2d sections of an act entitled "an act amendatory of an act entitled an act to provide for a general system of Internal improvements, approved January 27th, 1836," (the latter act approved February 6th, 1837.) The section of the first act referred to, is as follows: "The said Canal Fund Commissioners are hereby authorized and required, on behalf of the State, to contract with any individual, company, or corporation, at such times as may be directed by the Board of Internal Improvement, for a loan or loans, from time to time, in all not exceeding the sum of ten millions of dollars, on a credit of twenty-five years; said loan or loans to bear a rate of interest not exceeding five per cent. per annum, and to be negotiated that the same may be drawn and bear interest at any time, as early as practicable when they may be advised by the Board of Internal Improvements that it will be required for the progress of any of the works of Internal Improvements to which the same has been appropriated by this act, and the said Commissioners of the Canal Fund shall issue for such loans transferable certificates of stock in the name of the State, which, when signed by them, *shall be valid;* and to facilitate the purposes herein contemplated, the Commissioners of the Canal Fund shall have power to make such *arrangements relative to obtaining loans, the payment of interest thereon*, the transmission and deposits of money, as they may deem conducive to the interest of the State."

The two sections of the latter act are as follows: "That the Board of Canal Fund Commissioners shall hereafter be designated and known by the name of the "Fund Commissioners of Indiana."

Sec. 2. "The said Fund Commissioners in all future loans to be negotiated by them under the act to which this is an amendment, shall be, and they are hereby authorized to issue certificates of stock in the name of the State of Indiana, at a rate of interest not exceeding six per centum per annum, and shall have *power to make such arrangements relative to making loans*, the payment of the interest accruing thereon, the transmission and deposit of money, as they may deem conducive to the interest and welfare of the State."

The State being a sovereignty cannot be sued nor forced to pay her debts to the holders of her State bonds; but she is morally bound to do that which an individual is bound to do both in law and equity. When the State has become involved in pecuniary difficulties, and subject to a heavy loss, from which she is desirous to extricate herself, and the legislature puts a construction upon the laws enacted by itself under which those difficulties have arisen, they require, if possible, an examination as disinterested, as though the judgment affected not herself, but adjusted differences between other contending parties. No proposition is better settled than that the agent cannot exceed the powers granted to him by the principal; but the instrument granting the power shall be construed most strongly against the principal. When the power is specifically defined, but little is or can be left for construction, the extent of the power is easily determined. The same opinion would be formed by every one. But if the power is not specific or definite; if any thing is left to the discretion of the agent, then arises difference of opinion.

In the sections of the acts referred to and under which large amounts of certificates of stock were issued and sold on "time," are the powers of the Fund Commissioners definite, specific? In the opinion of the committee they are not. Much is left to their discretion. By those acts the Fund Commissioners are authorized to *contract* with any individual, company, or corporation for a loan or loans, from time to time, in all not exceeding ten millions of dollars—and to be negotiated that the same may be drawn and bear interest at any time. And to facilitate the purposes herein contemplated the Commissioners of the Canal Fund shall have power to make such *arrangements* relative to *obtaining* loans as they may deem conducive to the interest of the State. In these acts the powers of the Commissioners are defined and circumscribed only as to the amount to be borrowed, the rate of interest, time of payment, and certificates of stock to be issued. Every thing else in relation to obtaining loans is left discretionary with them. They were authorized to make such *arrangements* relative to obtaining loans as they might deem conducive to the interests

of the State. Under this vast but discretionary power they sold to a corporation several millions of certificates of stock in the name of the State of Indiana, made negotiable according to the requirements of law, and delivered them. Said corporation paid between four and five millions to the Commissioners, pursuant to contract.

The proceedings of the Commissioners were from time to time laid before the Legislature and acquiesced in by that body. At length, however, the corporation became unable to pay for a large amount of certificates that had previously been sold on time and delivered to them. And because of that failure it is pretended by some that the State is absolved from redemption of the bonds, the Commissioners having no power to dispose of them on time. The purchasers of the bonds had only to look to the sections of the acts above quoted to ascertain the powers of the Commissioners.

In the case of Smith against Mosier decided by our Supreme Court, at the November term in the year 1838, the question before the court was whether the pre-emption act of Congress, passed 29th May, 1830, included lands remaining unsold after they had been offered for sale by virtue of a proclamation by the President. The court uses the following language: "Soon after its passage it received a construction from the Secretary of the Treasury of the United States, which was transmitted through the officers of the General Land office, to the Receivers and Registers of the several land districts, and by them acted upon." This construction was that pre-emption rights extended, as well to lands which had been proclaimed for sale previous to the 29th of May, 1830, but which remained unsold, as to them which had not been so proclaimed for sale.

This interpretation by a high Federal officer, whose duty it was to execute the law, is certainly entitled to great respect; but had we no light on this subject, but what is derived from that source, respectable as it is, we should hesitate before we adopted the same opinion. We have, however, other guides to a correct conclusion. The framers of the law, themselves, have implicitly declared their intention in passing it, and have thereby sanctioned the construction of the Secretary. Since

the passage of the statute, with full knowledge of the sense given to it by that officer, Congress has repeatedly renewed it without any explanation or alteration of its terms. This, we suppose, they would have done had their meaning been mistaken by the functionary on whom the execution of that and the reviving laws, devolved.

The sale by the Fund Commissioners on time was reported by them to three successive Legislatures, and by them acquiesced in. No one in either branch of that body raised an objection either to their power, so to do or the expediency of it. Their proceedings were published to the world; and were undoubtedly, known to all dealers in stocks, in this country and Europe. It is conceived then that the Legislature sanctioned the construction given to the laws aforesaid by the Fund Commissioners; if there could be any doubt from the phraseology of the laws themselves. There is nothing in those laws prohibiting the sale of bonds on time. In fact the Fund Commissioners seem by those acts to be vested with unlimited discretion, except as before noticed.

It is conceded that if any of the bonds remain in the possession of the first purchaser unpaid for, the state is not liable for them, and their transfer may be enjoined by a court of equity, nor is she liable for those unpaid for which have been obtained from the first purchaser by fraud, but the burthen of proof would lay upon the State.

The committee are therefore of opinion that the sale of State bonds on time, heretofore made by the Fund Commissioners, by the phraseology of the laws under which sale was made, and the acquiescence therein by the Legislature, are valid and binding upon the State.

Secondly. If the Fund Commissioners were not authorized to sell bonds on time, is the State bound to redeem those so sold? If the committee have come to a correct conclusion upon the foregoing proposition, the solution of this question would seem unnecessary. But it seems to the committee that, by the terms of the acts aforesaid, the State is bound to redeem the bonds sold on time and unpaid for, which are in the hands of bona fide purchasers for a valuable considera-

tion, although the Commissioners were not vested with power to sell bonds on time. The certificates of stock were by those acts made negotiable, thrown into the money market and became mercantile paper. The purchaser had only to observe that they were executed according to law and obtain them by fair purchase. The law declared that when properly executed by the Fund Commissioners *they should be valid.* The law merchant immediately attached to them, and made the maker, the State of Indiana, responsible. If the Commissioners acted fraudulently, or exceeded their powers, they would be liable on their bonds, which the State was careful to require of them, but the rights of innocent purchasers of mercantile paper would be protected by any court of justice.

The committee cannot recommend any course for the State to pursue, based upon the hypothesis contained in the resolution, but will take the responsibility of recommending a course to be pursued based upon the hypothesis contained in this report. The State is in great pecuniary embarrassment, but not ruined. Our lands are fertile, our inhabitants industrious and frugal. Our resources are now great, but as yet in a small degree developed. We ought, with united effort, to come up to the rescue. The honor of the State must be sustained at all sacrifices, and her plighted faith remain inviolate. We ought to show ourselves the strong man, struggling with adversity, but with continued energy surmounting every obstacle. With these sentiments animating every bosom, no patriot need despair of the Republic.

P. SWEETSER, *Chairman.*

MEMORIAL OF THE BANK FOR SAVINGS, OF THE CITY OF NEW YORK.

To the People of the State of Indiana, represented in the Senate and House of Representatives.

The memorial of the Bank for Savings in the city of New York, respectfully sheweth,

That in the months of September and October, in the year eighteen hundred and thirty-five, they invested one hundred

and seven thousand and two hundred and fifty-two dollars, of money deposited with them, in the purchase of one hundred thousand dollars of the public debt of Indiana (created under an act providing means to aid and establish a State Bank.) This purchase was made at a premium of six per cent. and interest.

That in March, in the year eighteen hundred and thirty-nine, after a great change in the value of the most solid public securities, they purchased the further sum of seventy-five thousand dollars of the public debt of Indiana, called the Wabash and Erie Canal Loan; which purchase was at a discount of five per cent.

Both the said loans bear five per cent. interest, and were payable in twenty-five or thirty years; for all purchases cash was actually paid at the time of the purchase, in good faith on our part: they were made in unsuspecting and undoubting reliance on the faith and credit of Indiana, publicly and expressly pledged on the face of the bonds.

The amount of cash actually advanced for the said one hundred and seventy-five thousand dollars of debt was one hundred and seventy-nine thousand and twenty-seven dollars of cash.

Your memorialists knew of no difference in the justness of the debts so purchased; nor could they suppose that a difference would ever be permitted to exist, the one created to aid a bank, and the other created to advance a great work for internal commerce, especially any difference to the prejudice of the latter. But your memorialists, as to the Wabash and Erie canal loan, have received no interest since the first day of January, in the year eighteen hundred and forty-one; whereby a large income is deficient to your memorialists, and the convertible value of the investment greatly impaired, to the very serious loss of their depositors, whose money alone it is.

Your memorialists cannot doubt, that the failure by the State to pay this interest, has arisen from urgent public necessities and insuperable difficulties in its financial affairs. Least of all, dare they doubt the honor and integrity of a young, indeed, but a great, growing and already powerful

community, or its determination, at every sacrifice, to fulfil all its obligations. But your memorialists are depositaries of the scanty savings of the friendless poor, and they cannot consistently with humanity and their duty, omit this opportunity of laying their case before your Legislature; with the prayer that provision may be made speedily for this unpaid and accruing interest. For this purpose, sacrifices on the part of the people of Indiana may be required; but the hardships of any such sacrifice will be small, in a comparison with the loss of those who are represented by your memorialists.

The Bank for savings is a merely charitable institution for safely keeping the savings of the Poor. It has no stockholders, no wealthy depositors, it makes no discounts, issues no bills. The trustees and officers of the institution derive no emolument whatever from its operations. All its funds consist of deposits with the interest gained on the investment of them.

The depositors amount in number to thirty-five thousand and upwards, and so moderate are the amounts belonging to each, that they do not average over one hundred and forty dollars, and the great majority of depositors have less than thirty dollars each. These deposits, to a very great extent, constitute the whole estate of the depositors. They are their only reliance as a provision against sickness, inability to work, want of employment, and old age. A more sacred fund cannot be presented to the heart of man.

In condition, the depositors are of almost every age, occupation and country. Some deposits are made for children, by friends who deny themselves necessaries, in order to sow some seeds of hope for the future education of a child. Some are made by old men and women, sinking into decrepitude, who use a saving parsimony to eke out a support for years' wearing out in toil and poverty.

In occupation, the depositors embrace servants, sailors, soldiers, mechanics, journeymen, apprentices, cartmen and porters; nurses, seamstresses, and every other class of the laboring poor.

In national character, those whose trustees we are, include

emigrants from every country, who flee from the poorly paid and down-trodden labor of the old world, to the free and liberal institutions of the new. Germans, Danes, Swedes, English, Scotch, French and Irish, on touching our shores, make their earliest visits to our institution to place their scanty savings in our custody, until they find the means of employing their money, or need it for their support. With a trust of this kind, and on behalf of such persons, your memorialists have ever felt bound to the utmost care in their investments; for those whose interests are committed to them cannot afford to lose. We have therefore sought secure, in preference to profitable investments. With these views of our duty, we fearlessly placed confidence in the young and rising State of Indiana; by these purchases of its securities, we confided to her publicly pledged faith, so large a sum of our sacred deposits. May we not, then, claim the concurrence of every honorable, generous and honest heart within that rising community, in viewing as most urgent the obligations of a public faith so pledged and so trusted?

Your memorialists will not intrude any considerations of the already great population, the rapidly increasing numbers, the surely advancing wealth and power of Indiana: still they cannot forbear an appeal to a just and honest State pride in each, as a motive for the discharge of these obligations. Can your honest fame endure the stain of the denial or refusal of a debt so just, so pressing!

The people of Indiana well know, that the surest, and, indeed, the easiest way to overcome every difficulty, is to face it with promptitude as well as courage. They surely are unwilling to become used to public defalcation. They will not allow it long to be said by friend or enemy, that while a public debt to aid a bank, and which a bank undertakes to pay, is paid without a fault, yet the honor and faith of the State, pledged in the face of the world for a more public and useful purpose, shall stand for years dishonored.

Appealing to your humanity, to your justice, and to your honor, your memorialists, on behalf of tens of thousands of their humble depositors pray, that their just rights to the pay-

ment of the interest on their debt may be satisfied, and that the State would do itself the justice of redeeming its pledges at any present inconvenience.

And your memorialists will ever pray.

In behalf of the Bank for Savings,

PHILIP HONE,
President.

JAS. D. P. OGDEN, Secretary.

In transmitting the memorial of the Savings Institution to the General Assembly, on the 12th of January, 1846, Gov. Whitcomb in his message accompanying it, uses the following language:

"I commend the subject of this memorial to the consideration of the Legislature, with the remark, that the claims of justice and humanity upon the State, to do something for the relief of the holders of its bonds, who are citizens of our own country, taken in connection with the favorable disposition manifested by our creditors, and other concurring circumstances, call, in my opinion, for early action on the part of the representatives of the people."

In a previous message, on the 27th of Dec., 1845, from the Governor to the Senate, in reply to the resolution of Mr. Chapman, calling on him for information relative to Mr. Butler's agency for the bondholders, in speaking of the public debt, he remarks: "It is a great moral question, involving the dearest interests of the people of Indiana; in the adjustment of which, all mere party and local considerations should be merged."

It is indeed a great moral question, and it lies at the very foundation of public morals. It is a question of honesty, and every citizen should bring it home to his own bosom and conscience, and see to it that the character of his State is maintained in unsullied purity and honor.

The State of Indiana paid the interest on the bonds held by the Savings Bank, on the 1st July, 1839; again on the 1st of

January, 1840; again on the 1st of July, 1840, and again on the 1st of January, 1841; and then when her means were exhausted, she tendered her bonds, issued under the 19th section of the act of 13th February, 1841, bearing seven per cent. interest, in payment of the interest which fell due on the 1st July, 1841; and yet these bonds are part and parcel of those which were sold to the Morris Canal and Banking Company on credit, and for which that company failed to pay the State. And it is a fact that the State did pay the interest on *all* the bonds which were sold on credit, from the time they were sold in 1838 and 1839, half yearly, up to 1st January, 1841; and it was by the act aforesaid, made the special duty of the Fund Commissioners to do so; and great sacrifices were made at the time to meet the interest. No question was raised—no doubt existed in the mind of any one as to the duty of the State to pay the interest on the bonds in question, although all the facts were then known. It was well known that the bonds of the State were not in the hands of the parties who purchased them from the State on credit, and failed to pay for them, but that they had been sold by them, and delivered for full consideration to others, as in the case of the Savings Bank; and it is conceded that they are now in the hands of such innocent and bona fide purchasers. Could the State of Indiana refuse to recognize and pay any of these bonds in the hands of the present innocent holders, without gross injustice? and would not such conduct on her part, justly expose her in the eyes of the world, to the greatest reproach and dishonor? How could the purchasers of these bonds know whether the parties of whom they purchased had or had not paid for them? The possession of negotiable paper, is, of itself, evidence of ownership.

What source would a holder of State bonds look to for information respecting them? He could only look to the laws of the General Assembly authorizing their issue—to the annual messages of the Governor—to the Auditor's annual reports, exhibiting the outstanding bonds of the State, and the means of payment—the annual reports of the Fund Commissioners and State Agents—and to the reports of legislative committees.

A careful examination of all these public documents, from year to year—from 1836 down to the present time, inclusive—would only have the effect to satisfy his mind, that the State acknowledged her liability for all her outstanding bonds, and that she deplored, since 1841, her inability to meet the just demands of all her creditors, as they accrued.

He would look in vain for anything in any of these documents, calculated in the slightest degree, to excite alarm, or cause him to distrust the good faith and integrity of the State. Not a word is to be found, raising a question in regard to any portion of these bonds; on the contrary, a full and manly recognition of the obligation and duty of the State to pay all her bonds, marks these documents throughout. If a question could have been raised in the first instance, in regard to the liability of the State, it has long since been waived by her public acts.

In view of all the facts which have been stated in regard to these bonds, it may not be amiss to cite a few cases, illustrating the principles which seem to be applicable to them.

Suppose a farmer takes his wheat or corn or pork to market, and sells it to a merchant on credit, and the merchant fails before payment, and the farmer loses the debt, would it be pretended that the man who had purchased the property from the merchant and paid him for it, had come by it fraudulently? or would it be pretended that the farmer could pursue the property and take it out of the hands of such a purchaser? No—the loss is inevitable; it is a hard case for the farmer, but the loss falls on him by his own act.

Suppose a farmer puts his note into the hands of his neighbor, to take to the bank and get it discounted for him, which is done, and he gets the money and appropriates it to his own use, is the maker thereby released from his obligation to pay it when it falls due? And to make the case stronger, and like that of the State, suppose he should go and settle with his neighbor, and take security for the money, could he then pretend that he was not liable, because he had not received the money for his note?

Suppose a farmer puts his horse into the hands of an agent

to sell him for cash, and he sells him on credit, and reports the same to the owner, who approves of the sale, and the purchaser fails to pay according to the agreement, and the debt is lost, will it be pretended that the original owner could take the horse out of the hands of the purchaser? His only remedy would be by suit against his debtor.

Suppose a farmer should *lend* his horse to his neighbor, who sells him for cash, and converts the money to his own use, and the owner approves of the act, would it be pretended that he could afterwards go and take the horse out of the hands of the purchaser?

Suppose the Morris Canal and Banking Company had paid the money in hand to the Fund Commissioners, for all the bonds purchased by them at the time, and the same had been deposited in the State Bank of Indiana, subject to the drafts of the Commissioners, as the money was wanted on the public works, and the bank had failed before the money was drawn out, and it was consequently lost, would this constitute a reason why the State should not pay the bonds!

Or, suppose the Commissioners had embezzled the money, or had been robbed of it while on the road, or had lost it, would it constitute a reason why the State should not pay her bonds?

Or, suppose the money after it was obtained, had been imprudently squandered by the public agents under authority of law, or invested in unproductive public works, thereby involving a total loss to the State, would it be any reason why the State should not pay her bonds?

Suppose a man borrows a thousand dollars of the State Bank on his note, which he afterwards fails to pay, is the bank exonerated from redeeming its bills paid out for the said note, when presented at the counter?

The bonds of the State are like bank bills, and pass in the same manner.

Suppose the Fund Commissioners had received the money for the bonds sold, and had deposited it with the Morris Canal and Banking Company, subject to their drafts, where is

the difference between this case and selling the bonds to the company, and giving her time to pay for them?

It may be said that the account is now settled—that the Legislature have passed an act to provide for the payment of the public debt, and that there is no longer any reason for discussing the question in regard to the duty of the State to pay "the bonds for which, it is commonly said, no consideration has been received." Any one who was present during the discussions upon that bill, and attentively considered the remarks of members, could not fail to be impressed with the conviction, that one of the most serious objections to its passage was to be found in the opinion entertained by members on the very subject we are considering.*

There is reason to fear that many an honest citizen of Indiana, believes in his heart that the State is not equitably bound to pay the bonds in question, and such a man may yet distrust the equity of the recent measure, or it may be, yield his support to it, because he finds in its liberal provisions, so large a concession on the part of the bondholders, as to make up for the loss which the State has sustained. The object is to undeceive such a man—to disabuse his honest heart, and secure the full and cheerful assent of his reason and conscience, in approbation of the measure, because it is right—because it is honest—because it is his duty.

Mr. Butler remarked in his speech before the joint committee, on the subject of these bonds, "that there was not a bond of the State of Indiana outstanding, which she could refuse to acknowledge and pay in full, without being guilty of unblushing and shameful repudiation—without inflicting a wound upon the character of the State, which would forever remain as a dark and foul stain upon it." This is strong language, and yet do not the facts of the case warrant it? Could the State of Indiana refuse to acknowledge and pay one of the bonds sold to the Cohens?—could she refuse to pay one of the bonds held by the Savings Bank, without incurring such guilt? The truth is that *the loss* which the State has sustained, by reason of selling her bonds on credit, has nothing to

*See note in the appendix.

do with the question of her liability for the bonds thus sold, in the hands of innocent holders.

The loss is one thing—the liability of the State is another and different thing—and the two things ought not to be confounded; for it involves a serious injury to the citizen and to the State, and gross injustice to the public creditors.

In conclusion on this subject, it is to be hoped that the citizens of Indiana will not consider that the innocent holders of her bonds were justly responsible for any loss which the State has sustained in her transactions with companies or individuals, of which they could have no knowledge. The Savings Bank ought not to be held responsible for the default of the Morris Canal and Banking Company. The confiding creditors of the State ought not to be held responsible for the imprudence or improvidence of the State itself, or any of its agents, in the management of its public affairs. On the contrary, a just appeal to the sympathy of the citizens of Indiana, may well be made by the holders of her bonds, in view of the sacrifices and losses which *they* have sustained by the default of the State, and the consequent dishonor of her credit. Is it nothing that a charitable institution like the Savings Bank, the depository of the earnings of the friendless poor, should be subjected to the loss, if they were now compelled to cash the bonds, at their present market value, of $60,750,* on an investment of $75,000 in Indiana bonds? Would not "the claims of justice and humanity upon the State" to make good this enormous loss, be more pressing and more just, than can be the claims of the State upon it, to make good any part of the loss which the former sustained in the sale of the same bonds to the Morris Canal and Banking Company? In each case the loss is caused by the act of the State.

It is time that a just and honest sentiment prevailed on this subject. It is time that patriotism and honor should come to the aid of justice and truth, and the faith and credit of the State be placed above suspicion and above reproach. It is neither consistent with justice nor honesty—nor patriotism nor honor—that a citizen should deem the repudiation of an

*See note in the appendix.

obligation, issued under the broad seal of the State, as a thing to be spoken of lightly. A low estimate of the public faith can only find place in a bosom in which the sense of justice and patriotism, and honor, is either wholly extinguished, or where it is marred by ignorance or misapprehension of the facts.

A kind feeling ought to exist on the part of the people of Indiana towards those who have invested, it may be, their entire worldly means, "in unsuspecting and undoubting reliance on the faith and credit of Indiana, publicly and expressly pledged on the face of the bonds." Such investment in the purchase of her bonds, on their part, does indicate a kind feeling towards, and a generous confidence in the people of Indiana, which should protect them from uncharitable aspersions, and ungenerous attacks.

The legislation of 1846 will constitute an important epoch in the history of the State of Indiana. During the preceding ten years the people had witnessed the greatest vicissitude in the condition of the State. The mighty impulse which seemed to have been given to her prosperity by the Legislature of 1836 exhausted itself within a few years, so that by the winter of 1841, under the influence of the reaction which followed, the credit of the State was destroyed, and its finances were thrown into the utmost disorder—in the history of the State the day of adversity seemed truly to be set over against the day of her prosperity—since then the public debt has rested like a night-mare on the bosom of the State, crushing the energies and destroying the hopes of the people. It has been for years a disturbing theme, and the fruitful source of bickering and strife. The withering effects of it upon the moral, social, and pecuniary condition of the people, have been visible to reflecting minds, as the sun at noon-day, and could not fail to excite the deepest solicitude. The anxious inquiry with every honest and patriotic citizen has been—"how can we ever remove this difficulty and satisfy equally the honor of the State and the just demands of our creditors?" And whilst their patriotism and their fears prompted the inquiry, their hopes were unable to suggest the answer.

It was an honor and privilege reserved for the Representatives of the people in the General Assembly of 1846 to restore the credit and vindicate the honor of the State, and the Bill to provide for the funded debt of the State of Indiana and for the completion of the Wabash and Erie Canal through to Evansville, will be an enduring monument of the intelligence, patriotism, and integrity of that body, and the people whom they have worthily represented.

It is believed that no measure of legislation was ever matured with greater deliberation and care by the General Assembly than this Bill. The subject was presented and urged upon their consideration by the Executive of the State in terms which belonged to its gravity and importance. The reference which was made of it by the General Assembly indicated the importance which they attached to it. The joint committee to whom it was referred, it has been seen, was composed of two members from each of the twelve judicial circuits of the State, and they represented equally the two great political parties into which the State is divided. With one or two exceptions every member of this committee was present at the several conferences which were held with Mr. Butler, and six sittings were held at which he was present, lasting from one and a half to four hours each, during which he had an opportunity of laying before them fully the just claims and expectations of the creditors of the State whom he represented. The patience and attention with which the committee listened to his arguments during this protracted and extraordinary conference,—while it was no more than was due to the subject itself,—should have great weight in securing to the result of their labors the favor of both parties most deeply interested—the people of Indiana, and her public creditors.

The private deliberations of the committee were continued through several successive meetings, at which the subject was fully discussed; and it was finally agreed unanimously that a bill should be reported to each branch of the General Assembly for the adjustment of the public debt.

The bill which was reported by the committee, was, in the progress of it through the General Assembly, amended in

several important particulars, and the same as it finally passed is given below. It passed the House on the 15th of January, 1846, on its third reading, by a vote of 61 to 33, and the Senate on the 17th, by a vote of 32 to 15.

It is to be noted in the history of this bill, that in each branch of the Legislature it found manly and eloquent friends and supporters, belonging equally to both political parties, and that from the first to the last step in its progress, the measure was sustained ardently by good men of both parties, in and out of the Legislature.

AN ACT TO PROVIDE FOR THE FUNDED DEBT OF THE STATE OF INDIANA, AND FOR THE COMPLETION OF THE WABASH AND ERIE CANAL TO EVANSVILLE.

WHEREAS, Honor and justice alike require that such equitable provision should be speedily made for the discharge of the pecuniary obligations of the State as shall be just and acceptable to its creditors, honorable to the people of Indiana, and, at the same time, within the ability of the State, without further involving the people in a general debt: AND WHEREAS, An arrangement based upon a moderate system of taxation, and the completion of the Wabash and Erie Canal to Evansville, it is believed will secure the objects aforesaid: AND WHEREAS, In order to insure so desirable a result, a large portion of our bondholders have manifested a willingness to aid in the completion of said canal, within the ensuing four years, to the Ohio river: AND WHEREAS, This proposition embraces, as a general arrangement, the payment, by taxation, of two and-a-half per cent. on the unprovided public debt of the State, and a reliance, for the remaining two and-a-half per cent., on the lands, tolls, and water rents, of said Wabash and Erie Canal, (after paying expenses of construction and repair), thereby greatly relieving the people of Indiana from burthensome taxation, and virtually discharging them from any liability for the said remaining interest, and looking alone to said canal, its tolls and other revenues, for half the interest on said entire

public debt: And whereas, There is reason to believe that the plan embraced in the following provisions is entirely within the means of the State successfully to accomplish — that it will be acceptable to our creditors—honorable to the people represented by this General Assembly, and will add to the wealth, prosperity and advancement of Indiana: Therefore,

Section 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever the holder of any bond or bonds of this State, (the bonds issued under the original bank charter excepted,) shall choose to surrender the same up to the State, there shall be issued to such holder a new certificate of stock, which stock shall be redeemable at the pleasure of the State after twenty years, and which certificate shall specify and set forth the amount of principal of such bond or bonds so surrendered, and also distinct from the principal, the amount of interest which may appear to be due and accruing on such bond or bonds from 1st January, 1841, to 1st January, 1847, inclusive — computing the same at the rate of two and one-half per cent. per annum, and on which the State will pay interest as follows — that is to say: On the principal specified in such certificate, the State shall and will pay interest at and after the rate of two per cent. per annum from the 1st day of January, 1847, up to and inclusive of the first day of January, 1853, at which period the amount of interest specified in such certificate, and the one-half of one per cent. per annum on said principal, from the first day of January, 1847, to the first day of January, 1853, shall be added to said principal, and from that time forth the State shall and will pay interest on said principal and interest so added, at and after the rate of two and-a-half per cent. per annum until the same shall be finally redeemed: *Provided, however,* That no bond shall be surrendered as aforesaid, or certificate issued therefor, that has not attached to it the coupons or interest warrants falling due on and after the first day of July, 1847: *And provided further,* That if the revenues of the State, up to the first day of January, 1853, to be derived from a property tax of twenty-five cents on every one hundred dollars of value,

and a poll tax of seventy-five cents, shall not, by reason of the taxes being paid in six per cent. treasury notes, or from other causes, be sufficient, after defraying the current expenses of the government, to pay said rate of interest of two per cent., then and in that case the State shall only be required to pay, up to said first day of January, 1853, such rate of interest as the par funds in her treasury, derived from the taxation aforesaid, shall enable her to do; which shall be paid and distributed pro rata on the principal specified in such certificate of stock, and the deficit, with six per cent. interest per annum from the time it became due, the State shall and will make up and pay to the holders of such certificates, on or by the first day of January, 1853.

SEC. 2. Every certificate issued under this act shall be signed in blank, and numbered by the Treasurer and Auditor of State, and shall be under the seal of the State; and at the time of its being delivered, shall be filled up and countersigned by the Agent of State, whose duty it shall be to receive the bonds that may be surrendered, and issue the certificates of stock therefor—entering, at the same time, in suitable books, to be provided for that purpose, credits to the respective parties so surrendering bonds, for the principal and the interest specified in their respective certificates.

SEC. 3. Coupons or interest warrants falling due on and after July 1, 1841, and up to and including January 1, 1847, that may have been clipped or separated from the bonds to which they were attached, may also be surrendered, and in place of them a certificate of stock shall be issued—computing the interest and amount in the same manner as if such coupons were still attached to the bonds to which they were originally attached; but on the amount of such certificates no interest shall be paid until after January 1, 1853.

SEC. 4. The stock created pursuant to this act shall be transferable only in the city of New York, on books to be provided for that purpose by the State, by the holder or holders thereof, or his, her, or their duly constituted attorney, and in pursuance of such rules as may be adopted or may be prescribed by law. But no transfer shall at any time be permit-

ted, except on the surrender and cancelment of the outstanding certificate.

Sec. 5. The interest on the stock hereby created shall be payable half-yearly, at the city of New York, on the first days of January and July of each year, commencing on the first day of July, 1847. But if the interest for any half-year shall not be demanded before the expiration of thirteen months from the time the same became due, it shall only be demandable afterwards at the treasury of the State; and for the payment of the interest, and the redemption of the principal, as herein provided, the faith of the State is hereby solemnly pledged.

Sec. 6. For the purpose of saving and securing to themselves the remainder of the interest not herein before provided for, and the accruing interest not herein before provided for on the bonds surrendered as aforesaid, computing the same at and after the rate of two and one-half per cent. per annum, it shall be lawful for said bondholders, or any of them, and they shall have the privilege of raising among themselves, by a pro rata subscription on the amount of bonds held by them respectively, at any time before the first day of January next, a sufficient sum — not less, however, than two millions, two hundred and fifty thousand dollars — to complete the Wabash and Erie Canal to Evansville; and upon subscribing and promising to pay said amount, or so much thereof as may be needed, to trustees as hereinafter provided, and to be advanced in such sums as shall insure the completion of said canal to Evansville, and all necessary side cuts, feeders, feeder dams, reservoirs, and all side cuts, which may be hereafter particularly mentioned, within four years from the taking effect of this act; the canal lands, and tolls and revenues of said canal, shall be specifically set apart and conveyed to said trustees, in trust and security, to reimburse to said subscribers their said advances, and to pay the remaining interest on the said bonds, in the manner hereafter specified.

Sec. 7. As soon as said sum shall have been subscribed, it shall be lawful for said subscribers to elect two discreet persons, both of whom shall be citizens of the United States, and

one of whom shall be a citizen and resident of this State, as trustees; and, on notice thereof, accompanied with a copy of the subscription aforesaid, given to the Governor, he shall appoint, if in the recess of the legislature, but if not, the two Houses shall elect, by joint ballot, a third discreet person; and these three shall constitute a board, to be known by the style and description of the "Board of trustees of the Wabash and Erie Canal," and who shall hold their offices for the term of three years from the time of their said election or appointment, and until others are elected or appointed in their places: *Provided however*, In the case of the trustee on the part of the State, if he shall have been appointed in the recess of the legislature, he shall only hold his office until his successor shall be elected as aforesaid, by the two Houses of the next General Assembly.

SEC. 8. So soon as said trustees shall have been elected or appointed as aforesaid, it shall be the duty of the Governor, in the name and under the seal of the State, to execute and deliver to said trustees, by the corporate name of the board of trustees of the Wabash and Erie Canal, a deed or patent for the bed of the Wabash and Erie Canal, and its extensions, finished and to be finished from the Ohio State line to Evansville, including its banks, margins, tow paths, side cuts, feeders, basins, right of way, locks, dams, water power and structures, and all materials provided or collected for its construction, and all the property, right, title and interest of the State in and to the same, with all its appurtenances, and also all the lands and lots (not sold or disposed of) heretofore given, granted or donated, by the General Government to the State, to aid in the construction of said canal, or any part of it, or which may be hereafter acquired under, or by reason of, any existing grant, and all moneys due and to grow due and remaining unpaid on account of any sale or sales heretofore made of any canal lands so donated, and all moneys due, or to grow due, on account of any existing leases of any water power or other privilege on said canal, its side cuts, feeders, basins, or other appurtenances; said board of trustees to have, hold, possess and enjoy the same as fully

and absolutely as the State can or could do; subject, nevertheless, to all existing rights and equities against the State on account of the same, or any part thereof, or liabilities of the State growing out of, or in relation thereto; and the same to be held by said trustees in trust and security for the uses and purposes following, that is to say:

First. The proceeds of said lands, (sold and unsold), to be applied to the re-payment of the principal sum or sums that may have been advanced for the completion of said canal, its side cuts and feeders, and to the payment for work, labor and materials, to be done and furnished in and about the further prosecution and construction of said canal.

Second. The balance of the proceeds of said lands, (if any), and the tolls and revenues of said canal, up to and including the first day of January, 1853, after defraying all needful and proper expenditures for repairs, attendance, and other causes, to be applied as follows, and in the following order, that is to say:

First. To pay in full the interest, at and after the rate of six per cent. per annum on the sum or sums advanced for the completion of said canal to Evansville, or on so much of said sum or sums as may at any time remain unpaid; and the remander, (if any), to be applied to pay the balance of the principal (if any) of the sum or sums advanced for the completion of said canal.

Second. To pay in full to the subscribers making said advances or their assignees, interest at and after the rate of two and one-half per cent. per annum on the principal of the bonds they may have surrendered as aforesaid: and for the purpose of always knowing by whom any bond or bonds was surrendered, it shall be the duty of the Agent of State, at the time of the surrender to him of any bond or bonds as aforesaid, to take a full account of the numbers thereof, and by whom the same were surrendered, which shall be furnished to said board of trustees, whenever the same shall be organized.

Third. To pay in full the interest at the rate of five per cent. per annum, on the special stock hereinafter named, (be-

ing stock created for that portion of arrearages and accruing interest, charged over against the canal, and for which no provision is made by the State,) and to pay the principal of said stock in full as fast as the same can be done—first paying the interest and principal in full to such holders of said special stock or their assignees as shall have subscribed to the advance aforesaid.

Fourth. To pay in full to any other holder of any certificate of stock by this act authorized to be issued, interest at and after the rate of two and one-half per cent. per annum on the amount of the principal thereof.

Fifth. To pay, into the treasury of the State, any balance which may remain on hand; which balance shall be applied by the State to the redemption and retirement of any of the outstanding stocks created by this act at the pleasure of the State: *Provided*, That if the State at any time hereafter becomes the holder of any of said stock, she may, at her election, deem it to be extinguished, or she may regard it as still outstanding, and be entitled to receive and draw upon it whatever of interest the tolls and revenues of said canal may pay upon it: *And provided further*, That if the tolls and revenues of said canal shall be insufficient for all the purposes aforesaid, then they shall be applied pro rata among the respective parties entitled thereto. First paying in full those first entitled, and so on *toties quoties*. From and after the first day of January, 1853, an account of the tolls and revenues of, and expenditures on, that portion of the canal between Lafayette (inclusive) and the Ohio State line shall be kept separate and distinct from a like account of that portion between Lafayette (exclusive) and Evansville; and from and after that period the tolls and revenues derived from the first named portion, after defraying necessary expenses, repairs, and outlays, shall first be applied to make the full interest of five per cent. per annum on the certificates of stock that may be issued for the bonds now outstanding and known as the Wabash and Erie Canal bonds; and, if insufficient for that purpose, the same shall be apportioned and paid pro rata on the amount of said certificates; and, if more than sufficient, the excess shall be

added to the tolls and revenues derived from that portion between Lafayette (exclusive) and Evansville; and the sum thereof shall be paid as herein before in this section is provided. But—for the sufficiency of said lands, or tolls and revenues of said canal, to pay the advances aforesaid, or for the faithful application of the same by said trustees to said purposes—the faith of the State is, and shall be, in no wise pledged.

Sec. 9. Before the deed of trust herein provided to be given shall be delivered to said trustees, said subscribers to said advance shall pay over to said trustees, ten per centum of the amount of their said subscription; and thereafter from time to time, as further sums shall be needed for the prosecution of said canal. They shall on the requisition of said trustees, pay over to them such sum or sums as they may call for, not exceeding, however, at any one time, five per cent. on the entire subscription. And if said subscribers, for the space of ninety days after any such call by the trustees, shall fail to pay the sum or sums so required, they shall forfeit all sums previously advanced, and also all the priority and preference which by this act is given them. And if any one or more of such subscribers shall fail to pay as specified in this section, it shall be lawful for any one or more of the other subscribers to said advance, or others, to pay the same, and such payment shall give to the person or persons so paying the like lien on said canal, its lands and revenues, for the amount so at any time paid, as the original subscribers might have if paid by them; and the trustees appointed under the provisions of this act shall pay to him, her or them, his, her or their proper share of the avails thereof. And if by reason of the failure of said subscribers to make said advances, said trustees shall not be able to effect the completion of said canal within the period hereinbefore mentioned, then, and in that case, the lands and property hereby granted to said trustees shall revert back to, and become again the property of the State. And no such failure or any act or omission, or consequence of such failure, act, or omission on the part of the said subscribers to said advance, shall at any time in any manner operate as a pledge of the faith of the State for any sum or sums hereby provided to

be paid out of the revenues or lands of said canal; but the execution of the deed as specified in section eight of this act, shall of itself operate as a release of the faith of the State from the payment of any part of such sum, and all other sums and interest, except the principal of the stock and the interest of two and one-half per cent. per annum, as provided in the first section of this act. For the amount of any such call, said trustees shall give to said subscribers the proper certificate under their corporate seal, and from that time only shall interest be computed on such advance. But for the principal of any such advance, or the interest on the same, the faith of the State is, or shall be, in no wise pledged.

Sec. 10. The said board of trustees shall be a corporation, and shall have a corporate seal, and conveyances of any of the lands or lots granted to them as aforesaid, shall be in the name of "The board of trustees of the Wabash and Erie Canal," and shall be under their corporate seal. Before entering on their duties, they shall take an oath or affirmation faithfully and impartially to discharge the same; and shall each also give bond to the State, with surety to be approved of by the Governor, in the penal sum of $25,000, for the proper discharge of their duties, and the faithful application of, and accounting for, all moneys which shall come to their hands by reason of said trust. It shall be the duty of said trustees to take charge of said canal, with all its appurtenances, and canal lands and property, and adopt and put in execution such plans and measures as they shall deem most expedient for the prosecution and completion of said canal, with its necessary side cuts and feeders to Evansville, within the period hereinbefore prescribed; and for this purpose they shall appoint and employ all needful officers and agents; and may require them to give security, and take an oath for the faithful performance of their duties, and either of said trustees shall be empowered to administer such oath. They shall make all contracts for work and labor on said canal, and for the materials to be furnished therefor. They shall call in on said subscription a sum sufficient to insure the completion of said canal within the period herein specified, and not less than six hundred thousand

dollars (including said payment of ten per cent.) to be paid within two years from the time said trusts take effect. They shall receive the moneys advanced by subscribers as aforesaid, for the completion of said canal; and shall disburse the same. They shall attend to the sales of the canal lands embraced in the aforesaid deed of trust, which they may in their discretion (subject to the limitations hereinafter specified,) sell for ready money or on credit. They shall from time to time establish a tariff of tolls on said canal, receive all the tolls and revenues of said canal, and all the other moneys arising under the trusts in this act created, and shall pay the same out in faithful execution of their said trust, keeping a record of all their doings and proceedings, which shall at all times be open to the inspection of the public authorities of this State. They shall keep a full, just and true account of all moneys by them received for, or by reason of their said trust, and of their disbursements of the same; and shall annually report to the Legislature the general condition of said canal and canal lands, and exhibit a full account of their receipts and disbursements, and shall do all the acts needful and proper in and about the sale of said canal lands, and the completion of said canal to Evansville, with necessary side cuts and feeders, particularly the side cuts and locks to the Wabash river, on sections 136 or 137, between Coal Creek and Terre Haute, and on sections 33 or 34 and 46 as heretofore surveyed, between Coal Creek and Lafayette, heretofore contemplated; and the side cut and basin, from station 578 to the bank of Eel river, opposite Point Commerce as surveyed and reported by R. H. Fauntleroy; and in and about the care and preservation of said canal, its side cuts and feeders, after the same shall have been finished; and in and about the police, general government and regulation of the same. The trustees shall have power from time to time to make, ordain and establish such reasonable rules, by-laws and regulations in relation to the collection of the tolls, transportation on said canal, the conduct of boats and rafts, and the general police of said canal, as are usual or may be found necessary, and to enforce the observation of the same.

SEC. 11. The State hereby accepts the grant made by the General Government, by the act entitled "an act to grant certain lands to the State of Indiana, the better to enable the said State to extend and complete the Wabash and Erie Canal from Terre Haute to the Ohio river," approved March 3, 1845; and the lands selected by the State under said act, shall be classified under the direction and supervision of the Governor into three classes, taking into view quality and location; and the lands of the first class shall at all times be subject to sale, at a price not exceeding two dollars and fifty cents per acre; the lands of the second class shall at all times be subject to sale, at a price not exceeding two dollars per acre; and the lands of the third class shall at all times be subject to sale, at a price not exceeding one dollar and twenty-five cents per acre: *Provided, however,* That none of said lands or any others shall be sold at any time, at a less price than is provided in the acts of Congress donating the same. Saving and reserving to actual settlers and occupants, at the time of the passage of this act, of any of said lands granted to said trustees, the right to enter and purchase the tract of land, not less than a quarter-quarter section, nor more than a half quarter section, by him actually settled and occupied, (and which he shall continue to occupy at the time of said entry,) at the price per acre at which the same has been or may be valued or classified, irrespective of the improvements that may have been made by such settler; which right shall continue for the space of one year from the time when the deed of trust aforesaid shall be delivered to said trustees; and for which such settler shall only be required to pay at the time of entry or purchase, one-fifth part of the purchase money in hand, and the residue he shall be required to pay in five equal annual instalments, with interest annually in advance on the whole balance of the purchase money remaining due and unpaid: *Provided, however,* When two or more persons, not entitled to any right of entry, shall apply at the same time to purchase the same tract, it shall be sold to that one of the applicants who shall bid and pay, or secure to be paid, (as the case may be), the highest price.

Sec. 12. The trust hereby created, shall cease and be determined, whenever the moneys advanced for the completion of said canal with the interest and the special stock aforesaid shall have been paid and refunded, and the State shall have taken up and retired one-half of the stock, issued by virtue of the first section of this act, and shall assume the payment of interest at the rate of five per centum per annum on the balance; which the State reserves the right of doing at its pleasure. Whenever any vacancy shall occur in the board of trustees by death, resignation or other cause, such vacancy shall be filled by the General Assembly, or by the subscribers aforesaid, or their assignees, to whom belonged the election of the trustee whose seat shall become vacant, as the case may be.

Sec. 13. The tolls and revenues of said canal shall be applied to the repairs and expenses thereof, and the extension of the same until after the first day of January, 1847; from which period, and up to and including the first day of January, 1853, said tolls and revenues, after defraying all needful expenditures and outlays for repairs, attendance, and other necessary things appertaining thereto, shall be applied, subject to the limitations contained in the eighth section of this act, to the payment of the two and a half per cent. interest unprovided for by the State, on the principal of the surrendered bonds, from the first day of January, 1847, to the first day of January, 1853; at which time the deficiencies (if any) of said tolls and revenues to discharge said interest, shall be added to the unprovided for two and a half per cent. on the principal of said bonds surrendered, from the first day of January, 1841, to the first day of January, 1847, and the sum thereof shall be converted into the special stock herein before referred to — the principal and interest of which shall be only payable out of the said canal lands and tolls and revenues of said canal, as hereinbefore provided; and for which proper certificates of stock shall be issued. But for the redemption of said principal or the payment of said interest, the faith of the State is in no wise pledged.

Sec. 14. It shall be lawful for any other person than a bond-

holder to subscribe to the advance aforesaid ; and such party shall have the right to register with the trustees a brief description of bonds or certificates of stock under such subscription, at any time, within one year from the first day of November next ; and further, any bondholder shall have the right, within two years from the first day of November next, to register with said trustees a description of his or her bond or certificate of stock, and pay up to said trustees his pro rata share of said advance, together with interest from the time when the original subscription took effect ; and which registry and payment shall place such party on the same footing as if he had originally subscribed thereto.

Sec. 15. The first board of trustees organized under this act, shall fix the time and place, and by suitable rules and regulations to be entered upon their records, prescribe the mode and manner of subsequently electing trustees on the part of the subscribers aforesaid, and those who may thereafter become subscribers, or their assignees ; which rules and regulations shall at all times be subject to be altered or amended by said board.

Sec. 16. The interest and principal to be paid out of said canal lands, and tolls and revenues of said canal by said trustees, shall be payable half yearly, at the city of New York, on the first days of January and July of each year, commencing on the first day of July, 1847.

Sec. 17. The majority of said board of trustees shall have power and authority to act and decide in all cases ; and the action or decision of the majority shall be binding on said board, and be deemed to be the action or decision of said board ; excepting however that no sale or conveyance by said trustees of any land to be deeded by them as aforesaid, shall be valid or binding unless concurred in, and the contract of sale or conveyance be signed by the trustee on the part of the State.

Sec. 18. The State reserves the right of altering or regulating the tariff of tolls, that may at any time be established by said board of trustees, which however shall always be in accordance with the tariff of tolls on similar works.

Sec. 19. All expenses attending the selections of land under the act of Congress aforesaid, all expenses of surveying said canal, remaining unpaid, all expenses of classifying said lands, and all other expenses connected with, or growing out of the trust hereby created, shall be borne and paid by said trustees, out of the proceeds of said lands, or the tolls and revenues of said canal.

Sec. 20. This act shall be a public act, and shall be liberally construed in all courts of justice; and the State shall and will supply by future legislation, all such defects, found to exist, as shall enable the trustees aforesaid to carry into full effect the fair and obvious intent of this act; and the Governor is hereby required to give all necessary information to the parties interested, and to do any act or thing which may be necessary to carry this act into effect, and to facilitate any proceeding contemplated by this act.

Sec. 21. The troops of the United States, and their munitions of war, shall at all times be transported on said canal, free of any charge whatever.

Sec. 22. Said trustees shall employ a chief engineer, of known and established character for experience and integrity, who shall be required to execute a bond to the State, to be approved of by the Governor, in the penal sum of ten thousand dollars, for the faithful performance of his duties as engineer; and shall be subject to be removed by the Governor duing the vacation of the Legislature, or by the General Assembly when in session, for misconduct, inefficiency or neglect of duty. The said engineer before entering on his duties, shall take an oath that he will faithfully and impartially perform the duties of his office, without respect to persons, and that he neither is, no will be, interested directly or indirectly, in any job, work, or contract, let or to be let, on said canal, or connected therewith, during his continuance in office.

Sec. 23. Said trustees shall have the right to locate and construct such feeders, feeder dams, side cuts, and reservoirs, as may be necessary to supply said canal with water, and may take such timber, stone, or other materials as may be necessary for the construction of said canal, by making to the proper

owners reasonable compensation therefor, on the same terms, and in the same manner, as the superintendent of said canal is now authorized by law to do; and the word "*canal*" wherever used in this act, shall be construed to mean and include all its feeders, feeder dams, side cuts and reservoirs.

SEC. 24. Every person who shall wilfully and maliciously injure or destroy any lock, culvert or embankment of said canal, or shall wilfully or maliciously make any aperture or breach in any embankment of said canal, with intent to injure or destroy the same, shall, on conviction, be punished by imprisonment in the State Prison at hard labor, not more than five years, or by fine not exceeding five hundred dollars, and imprisonment in the county jail not more than two years; and shall be moreover liable to said trustees for the damages occasioned thereby, which damages when recovered shall be considered as a part of the revenues of said canal, and applied accordingly.

SEC. 25. The time of final payment on all sales of Wabash and Erie Canal lands heretofore made shall, upon the request of the holder of any certificate of purchase, be extended for the term of five years from and after the term when the same shall fall due: *Provided, however*, That the interest shall be paid annually in advance as now required by law.

SEC. 26. The State may at any time file her bill in chancery in the Marion or any other circuit court in this State, against said trustees, to enjoin them from any violation of said trust, and also to compel them to execute the same.

SEC. 27. Should either of the said trustees, or any officer or agent appointed by them, embezzle or fraudulently convert to his own use, or secrete with intent so to convert to his own use, any of the funds, choses in action, securities or effects which may come into his hands or possession under or by virtue of the trusts created by this act, the trustee, officer or agent so offending, shall be deemed to have committed the crime of grand larceny, and upon conviction thereof, shall suffer the punishment prescribed for that offence, in the fifteenth section of article first, of chapter fifty-three of the Revised Statutes of 1843.

Sec. 28. The capacity of that portion of said canal yet to be finished shall be the same as established and provided in the original and late surveys, and the said trustees shall cause to be constructed and kept in repair on the entire line of said canal suitable bridges over all State and county roads, crossing the same in the same manner as is now required on the line of said canal east of Tippecanoe.

Sec. 29. Said canal finished and to be finished, shall be deemed and taken to be a public highway, and shall be free to all persons whomsoever to pass and repass with their own boats or other water craft, and with their own produce, goods and chattels, wares and merchandize ; such persons conforming to such uniform rules and regulations, and paying such uniform tolls as may be established and required.

Sec. 30. Said trustees shall establish at least one land office for the sale of said canal lands, at some convenient point in this State, for the transaction of all business connected with said trust.

Sec. 31. It shall be the duty of said trustees to return to the Auditor of State, on or before the first day of November in each year, a list of all lands sold by virtue of the trust.

Sec. 32. It shall be optional with the State at any time hereafter, to call in and require a surrender of the outstanding stock, issued under the first section of this act, by giving to the holders of such stock a new certificate for the one-half of the principal thereof, to bear interest at and after the rate of five per centum per annum, and which principal and interest shall be payable and redeemable by the State, out of the revenues therof, the principal to be payable at the pleasure of the State, and by giving to such holder another certificate for the other half of the principal of such stock, to bear a like interest of five per centum per annum, and to be paid and redeemed, and only paid and redeemed out of the canal lands and the tolls and revenues of said canal as aforesaid, as provided in the eighth section of this act, and from and after the time that the State shall call in said stock, issued under the first section of this act, and shall issue new certificates as aforesaid, the State, its faith and revenues shall be only pledged

and responsible for the payment of one-half of said principal and interest at the rate of five per centum per annum thereon; for the other half of said principal and interest the holders of said certificates shall look solely and exclusively to said canal lands, and the tolls and revenues of said canal, as provided in the eighth section aforesaid of this act: *Provided, however*, That the State shall have the option of redeeming said canal certificates out of the revenues of said State, in the same manner is if this section were not adopted: *And provided further*, That the excess of the revenues of said canal lands, and tolls and revenues of said canal, after paying said interest of said five per centum per annum on said canal stock, (if any there be), shall be applied to the redemption and absolute retirement of said canal stocks.

SEC. 33. This act shall take effect and be in force as soon as the subscription mentioned in section six shall be made, and ten per centum paid thereon to the trustees elected, as provided in section seven of this act, and not before: *Provided*, That until there is surrendered and cancelled, bonds of the State, to the amount of one-half of all the bonds outstanding, (except bank bonds), it shall not be lawful for the Governor to convey by deed, the Wabash and Erie Canal, lands, tolls, &c., as provided in the eighth section of this act: *Provided further*, That the acceptance, as provided in the eleventh section of this act, of a grant of land made by the General Government, by their act, to grant certain lands to the State of Indiana, the better to enable said State to extend and complete the Wabash and Erie Canal from Terre Haute to the Ohio river, shall not be construed to make it obligatory on the State, at any time hereafter, to complete said canal out of its revenues, derived from taxation.

SEC. 34. That nothing in this act shall be so construed, as to allow the trustees, proposed to be appointed or elected, in this act, to erect any dam, bridge, or any other structure, in the construction of the extension of the Wabash and Erie Canal, so as in any manner to impede the navigation of the east fork of White river in its present state, or as it may be hereafter improved by the construction of dams for slack water

navigation, as the right to do has been secured to a company chartered by the present Legislature in an act, entitled, "An act for the improvement of White river."

SEC. 35. The State reserves the right of fixing, by law, the salaries to be allowed the trustees mentioned in the seventh section of this act.

JOHN S. SIMONSON,
Speaker of the House of Representatives.
J. G. READ,
President of the Senate.

Approved, January 19, 1846.
JAS. WHITCOMB.

I, John H. Thompson, Secretary of State, do hereby certify that the foregoing is a true and complete copy of the original enrolment of an act entitled "An act to provide for the Funded Debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," now on file in this office.

[SEAL] In testimony whereof, I have hereunto set my hand and affixed the seal of the State, at Indianapolis, this 10th day of January, 1846.

J. H. THOMPSON,
Secretary of State.

A brief exposition of this important bill, it is believed, will be acceptable to the people.*

By the first section of this act, it is seen that the interest to be paid by the State, is reduced to two and a half per cent. on the entire debt; *or*, if the State chooses, she may, by the thirty-second section, reduce the principal of the debt one half, paying five per cent. on it. This is all *the State* agrees to do. For the other half of the interest, or of the debt and interest, (as the State may choose), the bondholders are to look exclusively to the tolls and revenues of the Wabash and Erie Canal; and to secure the faithful application of the tolls and revenues to this purpose, the canal and its appurtenances are to be put into the hands of three trustees, two to be appointed by the bondholders who advance the money to finish the canal, and the other by the State. The trustees must, all of them, be citizens of the United States, and two of them must

*See Mr. Secrest's report in appendix.

be citizens of the State of Indiana. If the income of the canal turns out to be sufficient to make up the other two and a half per cent. of interest, the bondholders and people of Indiana will equally rejoice — the former, because they get their full interest, and the latter, because they pay in full. If the revenues fall short, the bondholders will lose, and if they exceed, the overplus is to be paid into the State treasury, to be applied to the redemption of the principal. This is the whole substance of the act, stripped of its details.

To illustrate precisely the mode in which the exchange of stock is to be effected, and the provisions of the act carried out: The bonds of the State now outstanding, amounting to eleven million and ninety thousand dollars, (exclusive of back interest,) are all issued in sums of one thousand dollars each, (see form of bond, page 20,) bearing interest at the rate of five per cent., (with the exception of a small amount which draw six and seven per cent.), and the faith of the State is pledged for the payment of both principal and interest. By the first section, an individual holding a single thousand dollar bond, in order to secure the two and a half per cent. interest on it, must surrender his bond, and take a new certificate for one thousand dollars, bearing two and a half per cent. interest, and the faith of the State is pledged for the payment of both principal and interest; for the other two and a half per cent. he must look to the revenues of the canal, as provided for in section six: and then by the 32d section, *at the option of the State*, he may be required to give up this new bond or certificate for $1000, and receive in place of it, two certificates — one for $500, drawing 5 per cent. interest, to be paid by taxation, and the faith of the State is pledged for its payment, and another certificate for $500, drawing 5 per cent. interest, which latter is made payable principal and interest, out of the canal and its lands and tolls: the one will be a State stock proper, and the other a Canal stock; and by this operation the public debt of Indiana will be equally divided into State stock, and Canal stock; the latter resting solely upon the canal and its revenues.*

It is probable that this latter course will be adopted by the

*See note in appendix.

Agent of State, and as the bonds are surrendered new certificates will be given at once for half and half.

The bond holders, *as such*, can exercise no more control over the canal and its tolls and revenues, than the people, *as such*, of Indiana. As the canal is substituted (if the law takes effect) as a specific security for one-half of the entire debt of the State, principal and interest, and the pledge of the public faith therefor is released, it is proper that it should be so placed as to make it a security to the bondholders, and for this purpose it is to be put in trust. The trustees can only hold and use it according to the express provisions of the law under which they act. They hold the property, and act for the mutual security of the State and her creditors. Their duties are well defined, and any violation of them will expose them individually to severe penalties. The persons who will be selected to fill so important a trust, it is presumed, will always be men of unquestioned character for honor and integrity. They will be subject to the laws of the State. Their conduct will always be conspicuous to the people, and any defect on their part will be sure to attract immediate attention. The property itself is all in the State, and subject to its jurisdiction. The State reserves to itself the right of regulating the tolls, and at any time in her pleasure, of redeeming the canal and closing the trust, by paying the incumbrance, and so soon as the debts for which it is held in trust are paid, out of its revenues or otherwise, the canal and its appurtenances fall back into the hands of the State.

This arrangement it is believed is a good one for both parties. The State does by the law make certain provisions for the payment of one half the interest on all her bonds, by taxation. It is to be presumed that in this she has done according to her ability ; and so far it cannot fail to be entirely satisfactory to her creditors. It is believed that no larger amount of interest on the entire debt, would be sustained by the people, to be paid by taxation. To secure the payment of the balance in full, however, the State is willing to place in security the only public work which she has retained, and the bondholders, it is confidently believed, are willing to rely upon it.

In order to state accurately, the amount of the public debt, and the portions of the same to be paid by the State, from taxation and by the Canal respectively, it is necessary to refer to the second proposition of Mr. Butler, submitted to the committee, and which was accepted, and to meet which precisely, the bill was originally framed. The proposition is in these words:

"1. Five per cent. interest to be paid—one half out of revenues to be derived from taxation, and the other half out of revenues of the Canal as follows, viz:

From revenues derived from taxation, the State to pay two per cent. upon the principal of the bonds, from first of January, 1847, to the first day of January, 1853, when one-half of the arrearages of interest, from first Jannary, 1841, to first of January, 1847, and half per cent. from first January, 1847, to first January, 1853, shall be added to the principal, and from that time forth the State to pay on the principal and interest thus added, two and a half per cent.

2. The remaining two and a half per cent. on the principal of the bonds, computing from first of January, 1841, shall be chargeable against, and paid out of the revenues of the Canal, and shall not otherwise be chargeable against the State." (See proposition, page 37–8.)

Accompanying this proposition was a table, designed to exhibit the portion of interest which the State would be liable to pay by its terms, (see table No. 6, page 30,) in which it is thus stated:

"Principal debt, - - - - - - -	$11,090,000
Interest at two and half per cent., from January, 1, 1841, to January 1, 1847, - - -	1,663,500
Half per cent. interest, from January 1, 1847, to January 1, 1853, - - - - -	332,700
	$13,086,200
Two and a half per cent. interest on this sum is	$327,155"

The first section of the bill is designed to cover precisely the above result by taxation, as will be seen by reading it.

The balance of interest is also provided for precisely as contemplated by the proposition, by the sixth section of the bill and the following sections relating to the Canal, with this difference, that the back interest and deficiencies of interest, accruing between first January, 1841, and the first January, 1853, to be paid by the Canal, are to be converted into a *special stock*, so called, (see section 13 of the bill), which stock is to bear interest at the rate of 5 per cent. per annum, from and after 1st January, 1853, and to be paid as provided for in the third clause of the eighth section; whereas, the back interest and deficiencies of interest, (which are to be kept separate from the principal), to be paid by the State as provided for in the first section, are to be funded agreeably to the terms of the proposition, at two and a half per cent. only.

The amendment which was afterwards made to the bill in the House, by the 32d section, was not intended to vary or affect in a single particular, nor does it, the principles of the bill as to the amount of indebtedness, or the mode of payment, but it merely extends to the State the right to charge also on the Canal, one-half of the *principal* of the debt, not touching the interest, for the reason that that was already provided for, and not touching in any manner the interests and rights of the bondholders, as provided for and fully secured in the several sections relating to the Canal portion of the interest.

If the principal of the debt be divided equally between the State and the Canal, as it may be according to the terms of the 32d section of the act, (if the bondholders come in under it), it will stand precisely thus, on the first day of January, 1847:

Principal of the bonds outstanding, according to the Auditor's report, - - - - -	$11,090,000
Interest from 1841 to 1847, six years, at 5 per cent., is - - - - - - - -	3,327,000
Total, - - -	$14,417,000

Of this transfer to Canal stock,		
One half the principal, - - -	5,545,000	
One half the interest, - - -	1,663,500	
		$7,208,500
Leaving one half State Stock, 1st Jan., 1847,		$7,208,500

Of this sum, the *principal* in each case by the act, is to draw interest from 1st January, 1847, at 5 per cent., and in case of the State, the back interest and deficiencies of interest, are to be funded on the 1st January, 1853, and to draw interest from that day, at the rate of two and a half per cent.

The amount of this further addition to the State debt, between 1st January, 1847, and 1st January, 1853, is one per cent. per annum, on the State's *moiety*, making $332,700, and making the entire funded State Debt, on that day, $7,541,200; the interest on which, by the terms of the first and thirty-second sections, taken together, will be annually, $327,155 only, instead of $556,220, which would be the simple interest on the public debt at this day, in the absence of any arrangement being made, and that too, exclusive of all back interest.

The amount of the further addition to be made on the same date to the Canal Debt is to be thus estimated: Interest on $5,545,000, from 1st January, 1847, to 1st January, 1853, six years, at 5 per cent., is $1,663,500; from which is to be deducted the net revenues from the Canal in the same period, (assuming it to be finished throughout by the fall of 1849,) and which are estimated at $1,248,700, leaving a deficiency of $414,800

To be added to the principal,	7,208,500
Making the Canal Debt on that day,	$7,623,300
On which the annual interest, at the rate of 5 per cent., is	$381,165

Thus the Canal Debt may be put down at $7,623,300, of which $5,545,000, will draw interest from 1st January, 1847, and the balance, from and after 1st January, 1853. This amount, it is perceived, may be increased by the deficiency of revenues from the Canal in the meantime. This is exclusive also of the cost of finishing; which, by the estimates of

Messrs. Fauntleroy and Ball, amounts to $2,010,000, and which amount will, it is hoped, be ultimately covered by the lands and property conveyed with the Canal for that purpose.

By the bill as it stood, the *interest* was arranged equally between the State and the Canal; the amendment (32d section) goes one step further, and gives the State the option of dividing the *principal* in the same manner.

The writer of this avails himself of the occasion to say, that this exposition of the debt and interest, as adjusted by the bill, is not based upon his opinion alone, but upon the undivided opinion of all those who participated in the draft of the bill, when originally prepared, and more especially is it the opinion of the gentleman who drew the bill, including the thirty-second section, subsequently appended.

By the 8th section of the bill, the Canal, its lands, and property are to be conveyed to the trustees, "subject, nevertheless, to all existing rights and equities against the State on account of the same, or any part thereof, or liabilities of the State growing out of, or in relation thereto." The express object of this provision is to protect the outstanding Canal scrip, and ensure its redemption out of the property in the same manner as the laws of the State require at the time the act shall take effect. The trustees, therefore, are required to receive the scrip, 'white dog' and 'blue dog,' east and west of Tippecanoe, in payment for dues and lands, the same as it is now receivable by the State.

The amendment made to the bill in the Senate, requiring *one-half* of all the bonds to be surrendered, before the deed of trust shall be executed by the Governor, seems to have produced the impression that only one-half of the bonds are to be surrendered.

This is erroneous. Suppose that this amendment had not been added, would not the inducement for bondholders to come in have been just as great? and would not the security of the State have been as great? The act proceeds upon the principle that any bondholder may act his pleasure, and do as he chooses, (see first section)—if he *chooses* to come in and surrender his bond, he will thereby make sure of two and a half

per cent. at least; whereas, now he gets nothing; and if he *chooses* to subscribe towards finishing the Canal, he may perhaps from that source secure the other two and a half per cent. In either case he is left to choose for himself, in view of his own interest. The State does not make it compulsory on him either to come in, or to subscribe after he does come in. The State not having the ability to give a whole loaf, to a suffering bondholder, does offer to him half a loaf certain, and makes a provisional arrangement for the other half. The State by the law, says, "there it is, ready for you, at any moment you may *choose* to come in and take it." Now, 'as a half a loaf is better than no bread'—and as it manifests a good disposition on the part of the State to offer it—though the individual might have expected, and would be glad to get a full loaf—yet, under the circumstances, he will feel himself constrained not only by a sense of his own interest, but by a feeling of confidence in the State, to come in and take that which is freely tendered.

No bondholder should hold back or refuse to come in, with the expectation, at some future day, of receiving from the State better terms than will be enjoyed by those who come in promptly under the Bill.

The State, actuated by a sense of equal justice towards *all* her creditors, will never make any such discrimination.

The terms proposed by the bill have been carefully adapted to the ability of the State, present and prospective, with a full sense of the rights of all her creditors, and any discrimination between them, would be in violation of a fundamental principle of equity, and it never will be made.*

There is another feature in the arrangement to be considered. The Canal is unfinished, and according to the estimates, it will require an outlay of $2,010,000 to finish it through to the Ohio river; and unless finished, it is admitted that it can not be regarded as furnishing much if any security over and above its annual necessary repairs. The bondholders are constrained in view of their own interest, to make the necessary advance of money required to finish the Canal. Such an advance involves a risk, and it is reasonable and equitable there-

* See note in the Appendix.

fore, that the parties making it should be entitled to some inducement over those who should refuse, or who from any cause, should decline to contribute.

Mr. Butler proposed that the law should give to such, a priority of payment, (see proposition); that is to say, that bondholders furnishing the cash means, (after being repaid their advance, principal and interest,) should be entitled to receive interest in full on the bonds held by them, and also the principal, before any of the revenues should be applied to the payment of bonds held by *non*-subscribers.

This priority was not assented to by the committee, except as to the payment of the interest in full on their bonds, including all arrears of interest, for which they may hold special stock. (See second and third clauses of section 8.)

It is objected that bondholders in necessitous circumstances, may not be able to make such advances. It is to be considered that *all* the bondholders are interested in having the Canal finished as speedily as possible, whether they are able to advance towards it or not. If the Canal proves to be productive, the bondholders who do not subscribe will be sure at some time, to receive their full interest, (see fourth clause of sec. 8); if it fails to be productive, the loss will fall altogether on the parties making the advance. Besides any bondholder wishing to become a subscriber to the Canal, will find no difficulty in raising money on the pledge of his bond, to the extent needed. If *all* come in, it is presumed that no more than ten per cent. cash advance on the amount of bonds will be required, which would make upwards of a million of dollars. The lands and revenues will probably furnish the balance as needed, to finish the work.

The attention of the reader is called to a careful examination of tables Nos. 5 and 6, at pages 27 and 28 of this pamphlet; the former exhibiting the amount of the prospective annual resources of the State, predicated upon the Auditor's reports. It will be perceived that the value of taxables for 1846, is estimated at 126,000,000 of dollars, and the annual increase thereafter is supposed to be equal to five per cent. only, upon a basis of $120,000,000, for the ensuing fifteen years. This

estimate is deemed moderate by the most intelligent men in the State; and though it has been extensively examined, no one has questioned its correctness.

A tax of twenty-five cents on the hundred dollars, upon this basis, it is perceived, is ample to cover the interest to be paid by the State.

It is believed that a fair valuation of the assessable property of the State, would exhibit a larger amount than is here estimated, in which case, a smaller tax will answer; and on the other hand, if the valuation is reduced, then a larger tax would be required to meet the engagements of the State.

It cannot be doubted that the additional value which will be given to property, by the settlement of the State Debt question, and the prosecution of the Canal, will add greatly to the wealth and population of the State, within the ensuing ten years. Immigrants will be no longer deterred from coming into the State, by its doubtful and unsettled condition in regard to the public debt. Land is certainly worth more per acre, in any of the new States whose credit is untarnished, and who are determined to meet their obligations, when they have the ability, at all hazards, than in a defaulting State; and evidence of the truth of this remark, is to be found in the notorious fact, that immigrants shun the defaulting States.

It is believed that it is not more from the fear of high taxation, than it is of repudiation and its consequences—a degraded character. By the settlement of the question, this barrier is removed; and the State of Indiana offers to the world a soil and climate equal, if not superior, to any of the western States. With her extensive and beautiful prairies in the north and west—her rich timber and bottom lands in the centre—her undulating and attractive country in the south—with her rivers, roads and canals, furnishing the means for transporting the abundant productions of her soil, to certain markets, and thereby insuring to her farmers better returns for their industry—she cannot fail to attract within her borders a full share of that swelling tide of immigration which is now leaving the old world, and seeking for the comfort, and independence and liberty of the new.

The following sentiments, by a citizen of the State of Indiana, standing high in her confidence, referring to the action of the recent Legislature on the public debt, furnishes an appropriate conclusion:

"The year 1836, was a very remarkable epoch in the history of Indiana. Stimulated by the examples of other States, and the laudable motives of an honest ambition, she resolved upon a great enterprise, requiring an energy and perseverance at which much older communities would have startled with dismay. Her career was arrested by misfortunes which could not have been anticipated, and her losses, as it too frequently happens, in similar cases, were in proportion to the magnitude of her vast designs. There was, however, yet left for her a patient resignation under adversity, and the broad path of honor; and most nobly has she manifested the former, and preserved the latter. Give to the great enterprize she assayed all the credit of the motives which prompted it, all the prosperity, wealth and greatness anticipated, and what was that epoch, compared to this of 1846? Disappointed, deceived, defrauded, and for a time prostrated by the heavy debt she had incurred, yet she has asked no sympathy, no compromise unless couched in honor, and now at the first moment of her ability, adjusts the payment of her debt, secures a place above reproach, and gives to her sons a moral lesson far more profitable to them, than the fullest realization of her blighted hopes."

APPENDIX.

MR. SECREST'S REPORT.

Mr. Speaker:—The select joint committee of the two Houses of the General Assembly, to whom was referred the communication of Mr. Charles Butler, in behalf of the foreign holders of the bonds of the State, have had that subject under consideration, and have directed me to report the accompanying bill, entitled "A bill to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville."

And as a member of said committee, I deem it proper to accompany said bill with the following suggestions, for which I alone am responsible:

The committee entered upon their deliberations, under a profound sense of the vital importance of the matters referred to them, and with an earnest desire to arrive at a result which would at the same time that it consulted the rights and the happinesss of the citizens, preserve the honor of the State, in her relation to her public creditors.

They were deeply impressed at the outset, with the conviction, that neither duty nor honor could require of them to adopt or recommend any plan, whose practical effects would be to impoverish the citizens of the State, or to deprive them of the sufficient means for the education of their children, and for the cultivation of the arts which minister to intellectual and moral improvement. But that at the same time, every good citizen must feel, that after discharging the primary duties which the State owes to her citizens, as above indicated; whatever surplus means the State may have in her possession, after practising a rigid economy in her ordinary appropriations, belong of right to her public creditors; and the withholding such means from those to whom they rightfully belong, would be an act of injustice, which it is fondly hoped, no good citizen would countenance for a moment.

It would seem to be an obvious principle, that in a popular government, the duty of each individual citizen to pay his proportion of a public debt, is just as binding as the duty to pay debts he has contracted on his private account—that no individual can shrink from a public any more than a private responsibility. And the fact that, in the one case he is amenable to a legal coercion, which in the other is precluded, can make no difference in his moral obligations, certainly not to weaken it in the latter case.

It is clearly the duty of the Legislature, and people of Indiana, as honest men, to look their difficulties fully in the face, to faith-

fully consider any plans of relief which may be presented or devised; and to adopt such and such only, as are honorable to our beloved State, and undoubtedly within her ability to meet.

The public debt, for the payment of interest upon which, the State has to make provisions, amounts, exclusive of back interest, to $11,090,000.

This is a large sum, yet it is probably less in proportion to the population and wealth of the State, than are the debts of Illinois, Ohio, or Michigan; and it is a circumstance full of encouragement, that Ohio has continued to pay her interest, and Illinois and Michigan have made provision for the payment of theirs.

It has been manifest for years past, that the State cannot pay the full interest on her debt by the revenues derived from taxation alone; that however strong the honest purpose of her people, her poorer citizens could not procure the means to pay such taxes, and the abstraction of so large a sum annually from the producing classes, must impoverish and eventually break down the ability of the State at large. It therefore became obvious to every reflecting mind, that any plan of relief to be practicable, must look in part to some other source of revenue, which should come in aid of the tax payers, and relieve them of a considerable share of the burden of annual interest.

Such a plan has been bronght to view in the ccnference of the committee with the agent of the bondholders. The general statements contained in his letter to the Governor, were not sufficiently definite for the committee to rest upon as the basis of any action on their part, and they therefore took an early opportunity to ascertain from him, as far as possible, what were the views of himself and those represented by him on the whole subject, and how far the Legislature might go in the matter, and still hope to stand upon such terms as would be acceded to by the holders of our bonds.

The first proposition of Mr. Butler, which is appended hereto, and which contemplates a rate of taxation of thirty cents on the hundred dollars, and perhaps thirty-five, and the payment by taxation of three per cent. of annual interest on the whole funded debt of the State, from and after 1851, was regarded by the committee as beyond the ability of the tax payers of the State to meet; and they thereupon adopted the resolutions and held the correspondence with Mr. Butler which are hereto appended.

It is proper here to remark, that the undersigned regards the adjustment of the rate of taxation, and its adaptation to the payment of interest, as a delicate subject, and one which involves considerations of the most serious character. If this interest were only to be paid to citizens of the State, where it would be retained within our own limits, and would remain as a portion of our own wealth; the State could afford to pay a larger amount annually by taxation, than she now can, when the amount to be raised will operate as a drain upon the wealth of the State, unless it is balanced by her surplus productions. Another consideration of a general nature, hav-

ing an important bearing on the question of ability, is, the relative degrees of ability, in various sections of the State.

In counties situated near our navigable rivers and canals, the producer receives the market price for all his surplus, excepting a very moderate deduction for carriage, and for profit to the dealer, and he obtains his merchandize for corresponding low prices; while in counties situated at a distance from the great thoroughfares, containing a sparse population, mostly engaged in opening the land for cultivation, and preparing it for production, the people receive but a moderate price for their scanty surplus. These products, as well as the merchandize received in exchange for them, must be transported through forests and over roads almost impassable. While, by the great expense of transportation, the price of their products is reduced, the prices of merchandize are correspondingly enhanced.

It is true that the prices of real estate are lower in such districts, and by this means the burden of taxes is lightened somewhat, but it is not equalized. It is necessary, therefore, in fixing the rate of taxation, to take, not the general average of ability, but something less, as the standard; so that no considerable portion of our citizens should be oppressed by a general law.

For instance—if we suppose that the richer counties in the State can as well afford to pay a 40 cent tax, as the poorest counties to pay a 20 cent tax; the tax should not be levied at 30 cents, but at some point lower, so as not to involve oppression upon any considerable portion of those least able. In other words, it is better that some should pay less than their ability, than that many should be called upon to pay beyond it.

The agent of our creditors having expressed a willingness to adapt his propositions to the ability of the people of Indiana, it seemed desirable that some modification of the first proposition should be made; and although the committee did not officially communicate to him the nature of the objections to his first proposition, nor of the changes desired by them, for reasons stated in the resolutions adopted by them, and above referred to, yet there is no doubt the views of the committee were so fully understood by him, as to have given shape to the second proposition submitted by him, and which is hereto appended, together with the tables which accompanied it.

Taking then, this last proposition of the agent of the bondholders, with the modifications of the first proposition embodied in it, as the result of a compromise of opinion on his part, and of the settled opinion entertained on the other part, it may be regarded as forming the basis of an arrangement, and the undersigned has no hesitation in recommending it as such to the favorable consideration of the House.

This proposition is, substantially, to release the general revenues of the State and her public faith, from one half of the entire funded debt, and making the same a charge against the entire Erie, Wabash and Ohio canal in Indiana. In effect, this is the same as taking one

half of the public debt from the shoulders of our tax-payers, and placing it upon this canal; — a work from which the State has not as yet realized any income whatever; though it is to be hoped that under judicious management, it may be made to yield a handsome revenue.

In addition, the bondholders are willing to take the canal and its lands, (not absolutely, but in trust,) and finish the work through to the Ohio river, advancing one-third or more of the cost of completion in cash, and using the lands for the balance, so far as practicable; and taking their recourse for this advance, not against the State, but only against the lands and revenues of the canal; thus advancing money to the canal on the security of the Congress grants of lands, without imposing any further debt upon the State; but on the contrary, in effect leaving our debt less by one half than it now is.

This canal, then, viewed simply as a financial measure, must be regarded as of great public utility, since it is so highly valued by our public creditors, that they are willing to take a lien on it alone, for one half of the interest on our funded debt.

It is certainly important as a matter productive of prosperity to a large and fertile portion of the State, bisecting the State from north-east to south-west, traversing in its course of three hundred and eighty miles in Indiana, — near one-third of the counties in the State, and enhancing the value of lands and products for a great distance on either side of its route.

It will readily be perceived, that the action of the Legislature, is to some extent, necessarily prospective; — that the arrangement is an entire one, and cannot be binding until the bonds are surrendered, and the other preliminaries settled; — that to induce bondholders to subscribe to the canal loan, some preference must be tendered to those subscribing to it. This is a necessary precaution for the benefit of the State, and it is clear that the provisions incorporated in the bill reported by the committee will insure this result, and at the same time protect the interests of the poorer class of bondholders, and enable them to participate in the benefits of those special provisions.

Funding the interest forward to 1853 instead of the present time, as would naturally be expected, saves to the State more than one million of dollars.

In that part of the bill relating to vesting in trust the canal, with its lands and revenues, great care has been taken to render the security of the bondholders perfect beyond a doubt; and at the same time to preserve the control of the State over the whole subject, so perfect, as to secure the interest of the State and all its citizens from all and every encroachment. Where all parties are animated by a liberal and accommodating disposition, there should be no insuperable difficulties in the adjustment of details.

By reference to the tables appended to the second proposition of

Mr. Butler,* it will be seen, that if the taxables in the State shall increase at the rate of $6,000,000 a year in value, (which is a moderate estimate,) a tax of twenty-five cents on the hundred dollars, and seventy-five cents poll, will afford the means of paying the State expenses, absorbing all the six per cent. treasury notes, and paying two per cent. interest upon the public debt, up to the year 1853; and from and after that time, paying the State expenses and two and a half per cent. upon the entire funded debt of the State including back interest and deficiencies of interest; and not only so, but that the proceeds of the same tax, would in addition produce an annually increasing surplus, to be set apart for the absorption of the principal of the public debt—which surplus, for the single year 1860, would be about $140,000.

In addition to the general control which the State is to exercise over the canal and its lands and revenues, for the prevention of abuses; it is provided that the State may repossess herself of the canal, with its property, whenever the debt made chargeable against it shall have been paid, either out of its revenues or otherwise.

This is in substance the plan which the undersigned regards as the most favorable to which it is possible to obtain the assent of our creditors; and it is in his opinion as favorable as in justice we could ask. It contemplates the payment of the whole debt, principal and interest; and at the same time, it is so carefully adjusted, and so well balanced, as to be brought completely within the reach of our present and future ability, without operating oppressively on any interests in the State.

The propositions of our creditors place the present Legislature of Indiana, in a position of great responsibility. It is believed that no more favorable terms have ever been conceded, and it is doubtful whether any as favorable have been offered to any indebted State.

The sentiment of our fellow citizens in every portion of the State, seems to be uniform and almost unanimous, in favor of a speedy settlement of the whole question; (and surely no one expects us to settle without making provision for payment)—indeed, there seems to be a very strong and general sentiment among the tax payers of our State, in favor of such an arrangement as is contemplated.

They are beginning to express emphatically the wish to make immediate provision to arrest the increase of the debt, and commence diminishing it; and to assume the greater share of the burden upon their own shoulders, rather than leave to their posterity the sad alternative of repudiation, or of submission to taxation greater than they can bear.

The considerations connected with this subject, address themselves to the individual interests of citizens of our State; each citizen shares in the shame of repudiation, or in the honor of an untarnished public fame; each man's character and that of his children, is to be affected by the character of his State. How can the judicial tribunals effectually administer those holy principles of

* See tables 5 and 6, pages 27 and 28.

justice which the State sets at nought? What sanctions can schools and churches give to virtue and moral purity, when the State itself treats their precepts with contempt? Corrupt the legislation of the country, and you debase the morals of its citizens; purify that, and you purify the entire masses.

Each individual citizen, bears with him his own proper share of the moral and pecuniary responsibility of the public indebtedness. It attaches to him in all the relations of life; as a citizen, by his love of country, and his duty to maintain the government which protects him — as a father, by the character of scrupulous regard to faith and honor, which it is his sacred duty to impress upon those who are soon to stand in his place — as a neighbor, by the common obligations of justice between man and man, the sense of which would soon grow weak if the State were to disregard justice — and especially, as a moral being, in the relation in which every man stands to his own conscience, and his instinctive sense of duty. As the owner of property, every citizen becomes pecuniarily responsible in this matter. Every dollar of his property is, in honor and conscience, as much bound by it as if the bond were sealed and the mortgage of record.

What would be thought of the man who, having an abundance of property at his command, yet beyond the power of the law, should laugh his creditors to scorn, and set them at defiance, whenever their necessities should compel them to ask of him that which rightfully belonged to them? Yet this would be no more unjust, no greater an outrage on common honesty, than the conduct of a community who fail to pay their debts whenever they are able.

The advantages which would flow to the State of Indiana from the settlement of this great question, cannot be estimated in dollars and cents. To say nothing of the social or moral advantages, those of a pecuniary nature cannot well be estimated. They are shown in the tide of emigration, which will pause in our State, instead of passing through and from it, in the enhanced value of farming lands, and the rapid increase of a healthy and industrious population — in populous villages springing up in the vicinity of all our public works — in the rapid settlement of public lands, which have long been in market, seeking in vain for purchasers — in the vast increase in the value of taxables, and in the spring and impetus which will be communicated to every branch of enterprise, and to none more than to manufacturing and mechanical industry. Its effects upon the standing and fame of our State, would be most happy. Surely Indiana has not a son, who would not pray heaven to avert the day when she "will have forfeited her station in the sisterhood of States, and no longer be worthy of their confidence and respect."

Every citizen would feel his self respect increased, and his confidence in himself and in his fellow men elevated by the honorable adjustment of the public debt. The event would sharpen the sense of justice and of moral obligation between man and man; it would encourage "the good man struggling with adversity" — would sweet-

en the labor of every debtor, aud increase his estimate of his own ability to pay; and it would create a more kindly and confiding feeling between debtor and creditor.

It is impossible to conceive of any good result to follow from a neglect to settle the debt now, so far as our domestic interests are concerned; while, on our public character, it must bring all the disgraceful consequences of repudiation. The settlement of it, will produce many blessings and only one evil, that of a moderate increase of taxes.

It is confidently anticipated, that the small increase of State taxes contemplated, will be cheerfully borne by our citizens; and that when they fully understand the great advantages which it produces to the State, they will consider it an honor, and a subject of honest pride, that they can do so much for the State, by making so small a sacrifice. It is hardly to be supposed that they will consider it as complimentary to them, that any one could imagine, they would hesitate between the shame of repudiation on the one hand, and a twenty-five cent State tax on the other.

It need not be apprehended, that the men who are ready at any moment, to peril their lives in defending the honor of the country, will not with at least equal alacrity spare the small modicum of money, the payment of which reflects more honor on the State, than all the spoils of war.

I take the liberty, in conclusion, earnestly to recommend the passage of the bill reported by the committee, embodying, as it does the propositions of our creditors, and the principles, above brought to view.

H. SECREST.

NOTES.

NOTE—*page* 39.

The amount actually realized by the State of Indiana, from the sale of her bonds, according to the report of the Agent of State, M. G. Bright, Esq., made to the Legislature, on the 15th December, 1845, (see House Documents, No. 11,) is $9,323,243 74.

Note.—It should be remembered that the bonds were 5 per cent. bonds, and a large portion were sold less than par. (See Auditor's report, December, 1843, where it is shewn that Int. Imp. bonds, for $8,918,000, were sold for $7,243,851, showing a loss on *the sale*, of $1,674,149.) If the State were to lay her bonds out of view, and account merely for the above amount received, of $9,323,243, with simple interest at the rate of six per cent., since 1841, up to January, 1847, (which would be the lowest rate), and sell six per cent. bonds to raise the money to pay the amount, it would require an issue of $13,895,459, to cover it, rating them according to the value of Ohio six per cents, 20th January, 1846; and if paid by an issue of 5 per cent., it would require $19,019,417, rating them according to Pennsylvania five per cents, on same date.

NOTE—*page* 65.

It is a significant fact, that notwithstanding the active and strong opposition which was made to the public debt bill in both branches of the General Assembly, and the various amendments which were offered by its opponents, no member in either branch, made any motion to exclude from the provisions of the act, any portion of the bonds of the State; the inference, therefore, is irresistable, that every member was at last satisfied that there was no legal or valid defence to the payment of any of the bonds.

NOTE—*page* 66.

In March, 1839, the Savings Institution paid for $75,000 of Indiana bonds, cash, - - - - - -	$71,250
Interest on said bonds, 1st January, 1841, to 1st January, 1846, 5 years, at 5 per cent., - - -	18,750
1846: January. Amount of outlay, - - -	$90,000

1846: January 30. The cash value of Indiana bonds in the market, is 39 cents for $100, including all back interest. If the Savings Bank were required to sell their bonds at this time, they would realize in cash for the whole amount, only - - - - - - $29,250

Cash loss, - - - - - - - $60,750

If the interest should be added on the interest checks from the time they fell due, this loss would be increased to - - - - - - - - - - 2,198

$62,948

A corresponding loss at least, would be incurred by any one who had purchased the bonds prior to the default of the State. It should be considered however, that many persons who bought and paid for Indiana bonds, prior to the default of the State, were compelled, after the State suspended payment, to sell their bonds for what they would fetch, and make the sacrifice, and hence the reason why Indiana bonds were sold at one time, at 20 cents on the dollar!!

The State of Indiana uniformly exacts interest from her own citizens, who are debtors to the sinking or other trust funds, *on the interest*, from the time it falls due, and the interest is by law, required to be paid in advance, at the rate of 7 per cent.

Some people think that because Indiana bonds have been sold in the market as low as 20 cents on the dollar, (in consequence of her own default), therefore, the State would be justified in buying them up at the same price. Such persons think that it would be *very* honest for the State, instead of applying her means to pay her honest debts, to turn stock-jobber, and use them in the purchase of her own bonds at the depreciated rates. Of course, the State in such case, would desire to buy up her bonds as low as possible, and as it would be better to buy at ten cents on the dollar than at twenty, she would have an interest in sinking the value as low as possible. Such persons would measure the duty and obligation of the State by a standard *lower* than the brokers' list in Wall street!! They place a high value, truly, on the character and credit of the State!

What would the people say, if the State Bank of Indiana, having first flooded the country with its bills, should then suspend specie payments, and cause its notes to sink to ten or twenty cents on the dollar, and should then in the face of the world, use the specie in their vaults, which they had withheld from their confiding and suffering bill holders, to buy in their own bills at these low rates? What should and would be said of a State that should set or follow such an example? and what should be thought of a citizen who could desire or recommend such a course to be adopted?

NOTE—*page* 87.

Statement, showing the arrangement of the Public Debt, under the Bill to provide for the Public Debt, approved, 19*th Jan.*, 1846.

Principal, - - - - - - - -	$11,090,000 00
Interest, from 1st Jan., 1841, to 1st Jan., 1847, at two and a half per cent., - - - - -	1,663,500 00
Interest, from 1st Jan., 1847, to 1st Jan., 1853, at one-half per cent., - - - - - -	332,700 00
Total funded debt, 1st Jan., 1853, - -	$13,086,200 00
Annual interest, at 2½ per cent., - - -	$327,155 00
Semi-annual interest, - - - - - -	$163,577 50

If the *principal* be divided, as contemplated by the 32d section of the bill, then the account will stand thus:

One-half of principal, - - - - - -			$5,545,000
Interest on same, at 5 per cent., -		277,250	
Back interest as above, - - - - - -			$1,996,200
Interest on this, at 2½ per cent., -		49,905	
Principal,	$5,545,000		
Interest,	1,996,200		
	$7,541,200	Interest, $327,150	

The Canal would be charged with one-half of the principal, - - - - - - - -	$5,545,000
One-half the interest, up to 1st Jan., 1847, -	1,663,500
First January, 1847, - - - - -	$7,208,500

Exclusive of the cost of finishing. (See page 91.)

From 1st Jan., 1847, to 1st January, 1853, the annual payment of interest, is $221,800.

NOTE—*page* 93.

It is said that the State will not ever discriminate among her public creditors, but will treat all alike. This is the principle acted upon by the Legislature, in the passage of the Public Debt Bill. Mr. Butler professed to act for only a portion of the bondholders of the State. The Legislature very properly, however, in the bill, place *all* on the same footing, and leave the door open to all to come in; and in no other form could the bill pass.

It is said that without such provision, requiring one-half the bonds to be surrendered before the deed of the Canal shall be executed, the holder of a single bond of $1000, might come in and subscribe the whole $2,250,000, and thereby get possession of the Canal with all the Canal property! Well, suppose he did, what would he get? Would that make it *his* property? The law says the Canal pro-

perty shall be conveyed to *three* trustees, upon certain conditions, and for certain purposes; and the trustees can only hold and use it precisely as the law specifies; and so far as the State is concerned, it makes no difference whether the whole subscription to finish the Canal, is made by one bondholder or a thousand — or whether it is made by any bondholder or not. It may be made by any person, as will be seen by section 14 of the act, and by the same section it will be seen that *any bondholder* has a right to come in at any time, within two years from 1st Nov., 1846, and subscribe, and by paying up his share with interest, may place himself on the same ground exactly, as if he subscribed originally. It is an object to the State to have the Canal finished, no matter by whom, nor how, so long as it involves no debt to the State, and care is taken to secure the specific application of all the proceeds, and every interest, public and private, is fully protected. (See section 8, defining the trust; see also sections 10, 18, 20, 22, 25, 26, 27, 28, 29.)

NOTE.—It will be perceived (see sec. 33) that the act is to take effect, as soon as the subscription for the Canal is made, and the ten per cent. cash paid to the trustees, as provided in section 9; the deed of trust shall not be executed and delivered, however, until one-half the bonds are surrendered, as provided in sec. 33.